# AMO REPORTS

# 82-2

## AMO SUBMISSION TO THE STANDING COMMITTEE ON GENERAL GOVERNMENT ON BILL 159 AN ACT TO REVISE THE PLANNING ACT

THE ASSOCIATION OF MUNICIPALITIES OF ONTARIO
MARCH, 1982

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# AMO SUBMISSION TO THE STANDING COMMITTEE ON GENERAL GOVERNMENT
## BILL 159
## AN ACT TO REVISE THE PLANNING ACT

## 1. INTRODUCTION

### 1.1 Background

The Association of Municipalities of Ontario (AMO) has recognized for many years the inadequacies of the existing Planning Act and has consistently pressed the Government of Ontario to rewrite the legislation to take account of the growth and sophistication of municipal government and planning. The constituent member associations of AMO for their part have previously prepared several reports advocating specific changes. These include the (pre 1982) AMO Submission to The Planning Act Review Committee in April 1976, its Response to the Report of The Planning Act Review Committee in November 1977, its Response to the White Paper on the Planning Act in August 1979, and, finally its Response to the Draft Planning Act in March and July 1980. The Association of Counties and Regions of Ontario prepared responses to both the Report of the Planning Act Review Committee and the Draft Planning Act while the Rural Ontario Municipal Association has prepared several reports addressing the planning process from a rural standpoint. This submission represents the recommendations of the new Association of Municipalities of Ontario with respect to Bill 159.

Since the Association's members - the municipalities of Ontario - will ultimately be responsible for much of the administration and implementation of the new Planning Act, AMO believes that it is important that municipalities be directly involved in the formulation of the revised planning legislation, and therefore welcomes the opportunity to put forward its views regarding Bill 159 to the Committee on General Government.

Traditionally, municipal planning has been viewed as an attempt to ensure orderly development. If this objective is to be realized the new Planning Act must reflect a progressive view of planning and provide a meaningful framework within which municipal planning may occur. For example, the Association believes that municipalities must be permitted to determine the type of planning that is best suited to their needs and circumstances. The Provincial Government's present preoccupation with the physical arrangement of not provide the flexibility to allow municipalities to address their unique concerns and circumstances. Indeed provincial interests in planning matters as defined in Bill 159 are not limited to the physical aspects of planning. The Association believes that municipalities must be permitted to address all the subject concerns (physical, social, economic and environmental) for which a municipality carries a responsibility, in the context of a comprehensive planning scheme.

In the Report of the Royal Commission on Metropolitan Toronto (Robarts Commission), the elements considered crucial to the planning process were delineated. Since it can be argued that it is through the design of the planning process that municipal planning ultimately will be defined, AMO stresses the importance to all municipalities of the tenets set forth in the Robarts Report:

> (T)he process should recognize that planning is political, involving choices between conflicting values. Accordingly, planning should be intimately related to political decision-making structures, and planning policies should provide a coherent direction to the development of the municipality but retain sufficient flexibility to permit adaptation to changing circumstances.[1]

AMO believes that a decision of a municipal council should be assumed to be appropriate unless successfully challenged. In addition, it believes that published Provincial Government policies should provide guidance to individual municipalities. AMO stresses that planning is an evolutionary process in which the need for both certainty and flexibility exists.

> (T)he planning process should maximize local autonomy by limiting the review and approval powers of bodies more remote from the local political scene than the local council.[2]

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[1] Report of the Royal Commission on Metropolitan Toronto: DETAILED FINDINGS AND RECOMMENDATIONS, Volume 2, June 1977; P. 215

[2] IBID.

AMO believes that some portions of Bill 159 are contrary to this principle. For example, the Minister of Municipal Affairs and Housing will have the power to unilaterally alter a municipality's official plan. AMO fears that Ministerial intervention will be possible in so many areas that local autonomy may not be maximized. Too much of the planning process will be at the discretion of the Minister of Municipal Affairs and Housing and that individual's perception of provincial interest.

> (T)he planning process must ensure an adequate degree of planning coordination within governments and among the various levels of government, as well as an appropriate means of resolving conflicts between governments on planning matters.[3]

While Bill 159 provides flexibility for inter-municipal co-ordination, particularly outside territorial districts, AMO does not believe that it fully addresses the matter of improved consultation between municipalities and the Province. With respect to the development of policy statements AMO is concerned that no formal consultative procedures with municipalities seem to have been suggested.

> (T)he process must be open, clear, and easy for citizens to understand, and it must operate with sufficient speed and finality to ensure that neither the public interest nor the rights of interested parties are unduly reduced by lengthy delays of the type that now characterize the process.[4]

The Association believes that Bill 159, as presently structured, would lead to delays, much longer in length than those experienced under the existing Planning Act. As such, Bill 159 is not conducive to "timely decision-making".

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[3] IBID.

[4] IBID, Page 216.

## 1.2 Planning Principles

In 1979, the Annual Conference of the Association of Municipalities of Ontario adopted eight planning principles that are, for the most part, as applicable to Bill 159 as they were two years ago. These principles, set out below, provide the context within which the Association has prepared its response to Bill 159.

### 1. Decision-Making by Municipally Elected Officials

Provincial planning legislation must reflect the right and obligation of municipally-elected officials to determine policies, procedures, and standards appropriate to their municipality. Municipal decisions shall be deemed to be appropriate unless successfully challenged.

### 2. Consultation

Provincial/Municipal consultation shall be an ongoing process in the formulation of legislation, Regulations, policy circulars, and planning guidelines.

### 3. Provincial Legislation and Policy

Provincial legislation shall establish the framework for municipal planning. Regulations shall be limited to general items of procedure. The Province must publish and circulate clear statements of Provincial policy. Provincial intervention in municipal planning shall only occur when a municipal planning action contravenes a previously published Provincial policy.

### 4. Municipal Planning

All municipalities must have an Official Plan with clearly stated policies on which planning decisions shall be based. Municipal planning may address social, economic, environmental, and physical factors to the degree required by local circumstance.

### 5. Timely Decision-Making

The Province, the Ontario Municipal Board, municipalities, and public agencies shall ensure that all planning matters are acted upon without undue delay.

### 6. Delegation

The delegation of authority for municipal planning shall be automatic when the municipality receiving the power has met legislated criteria.

### 7. Public Involvement

Municipalities must ensure that all citizens have access to information and the right to notification, hearing, and appeal. All citizens shall exercise their right to appeal in a responsible manner.

### 8. Ontario Municipal Board

The Ontario Municipal Board must be the final adjudicator in all planning matters referred to it in which a determination must be made as to whether or not a municipal action contravenes published Provincial policy.

## 1.3 Association Approach

The Association's response to Bill 159 consists of two sections. First, the proposed legislation is reviewed in the context of the eight planning principals noted above. The latter portion of the submission, which encompasses a section-by-section analysis of the draft legislation, contains AMO's specific recommendations with respect to certain provisions of Bill 159.

The Association's submission is broad-based and represents a consolidated municipal perspective of those legislative changes that are required to improve the planning process in the Province of Ontario. AMO trusts that the General Government Committee, the Government, and the Legislature will recognize fully the important role the municipal level of government has to play in the formulation of the new Planning Act, and that the recommendations contained in this submission will be given careful and full consideration.

The Association acknowledges that positive changes were made between the draft legislation initially prepared and released for comment by the Minister of Municipal Affairs and Housing, and Bill 159. The establishment of advisory planning bodies at the discretion of municipal councils, the Cabinet approval of provincial policy statements and the authority for municipal councils to establish appropriate administrative fees for handling planning applications are all examples of areas in which Bill 159 encompasses recommendations previously advanced by the Association.

## 2. PROVINCIAL POLICIES

### 2.1 Policy Statements

The Association recognizes the need for the Province to establish a legislative framework to ensure that Provincial policies will not be jeopardized by municipal planning actions. AMO believes that the Provincial Government should not intervene in municipal planning except where this framework has been established in the form of previously published, Cabinet-approved policies.

The Association is pleased that Bill 159 now provides that Provincial policy statements will be Cabinet-approved documents and will be circulated for comment. AMO believes, however, that Section 3 of the legislation should ensure formal consultation with municipalities prior to such issuance.

The Association believes that only those policy statements that have undergone municipal circulation and review and that have received Cabinet approval should constitute "Provincial interest" and serve as the basis upon which the Government may intervene in the municipal planning process. AMO is of the opinion that the Provincial Government must publish its policies to provide municipalities with a framework within which to plan. As stated in AMO's Response to the Report of the Planning Act Review Committee, if the Province does not explicitly state its policy:

> "The municipality will still operate in a system fraught wth uncertainty and conjecture on Provincial intentions."[5]

The Province must be required to indicate its reasons for objecting to a municipally-approved planning document and should be subject to the same appeal procedures as any other individual or agency.

Provincial intervention in municipal planning operations must only occur when the Minister believes that a previously published Provincial policy is being contravened. In such cases the Province must notify the affected municipality giving reasons and a proposed remedy. If the affected municipality does not agree to carry out the action proposed, believing that a previously published Provincial policy is not being violated, the Government may refer the matter to the Ontario Municipal Board for adjudication. The decision of the OMB should be final and binding on all parties.

## 2.2 Regulations

Bill 159 authorizes the Lieutenant Governor-in-Council to formulate a number of Regulations, but does not include provision for municipal review of these.

Section 69 of Bill 159, for example, reads as follows:

> Municipalities and planning boards in formulating and implementing planning policies shall have regard to such standards for the development of municipalities as are prescribed.

This section, along with Section 71(c), provides considerable authority to the Minister in prescribing, by Regulation, development standards that may or may not be reflective of local needs or in compliance with local zoning by-laws. While it has not been stated that municipalities would be required to amend their zoning by-laws to facilitate the implementation of these development standards, the Association strongly objects to the unilateral imposition of Provincially-prescribed standards on municipalities.

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[5] Association of Municipalities of Ontario, Response to the Report of the Planning Act Review Committee, p. iv. · November, 1977.

While acknowledging that regulations are required to implement certain provisions of Bill 159, it is impossible to assess the true administrative impact of Bill 159 on municipalities without these regulations. AMO believes that the Association must be permitted to review and comment upon the regulations prior to Bill 159 receiving third reading.

## 3. DIVISION OF POWERS

### 3.1 Provincial Interest and Authority to Amend and Refuse Municipally-Approved Planning Domuments

Bill 159 provides the Minister of Municipal Affairs and Housing with the authority to modify or refuse official plans, official plan amendments, zoning by-laws and plans of subdivision, if he is of the "opinion" that Provincial interests are being threatened. Furthermore, the proposed Act, with one exception, neither requires the Minister to indicate his reasons for the intervention nor provides recourse for appeal by municipalities.

This discretionary authority vested in the Minister is clearly not an acceptable situation. The Report of the Planning Act Review Committee (PARC) made the following comment regarding the role of the Province in the planning process:

> "it seems to us that the limits of ministerial discretion should be clearly expressed in legislation ... We also feel that those matters on which the Minister is to act in a discretionary manner, the way in which discretion is to be exercised should be spelled out."[6]

AMO concurs.

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[6] Report of the Planning Act Review Committee, Page 35; Section 4.22.

## 3.2 Delegation

In the past, the Province has delegated many of its powers of approval for planning matters to regional governments and restructured counties. Bill 159 would appear to continue this trend of delegation to regional governments, while allowing for an enhanced planning role for counties. AMO supports the transfer of planning powers to municipalities provided criteria are established to ensure a balanced distribution of planning powers between upper and lower-tier municipalities.

Where approval authority has been delegated to an upper-tier municipality further delegation to a local municipality must be mandatory, on request, provided the local municipality has fulfilled certain prescribed criteria. In instances where the upper-tier municipality refuses to do so, the local municipality should have the option of appealing that decision. Again, the Association must be given an opportunity to review and comment upon any delegation criteria prior to Bill 159 receiving third reading.

AMO cannot agree that municipalities in restructured counties and in regional municipalities should not possess the powers which will be delegated to cities outside restructured upper-tier municipalities. Municipalities should not be deprived of responsibilities solely as a result of previous Provincial initiatives in local Government restructuring.

Where a municipality has an approved official plan in place, AMO believes that the implementation of that plan should be the responsibility of the municipality. Bill 159 would permit this:

> 4.-(1) The Minister, on the request of the council of any municipality, may, by order, delegate to the council any of the Minister's authority under this Act, under section 50 of the Condominium Act, under subsection 298(11) and subsection 306(2) of the Municipal Act, under subsecton 82(3) of the Registry Act and under section 145 of the Land Titles Act and where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board.

Despite the similarity of the wording in this provision of Bill 159 to that which exists in the present Act the Ministry of Municipal Affairs and Housing has, to date, only delegated this approval authority to restructured counties and regions. AMO believes that the delegation of approval authority as set out in Section 4(1) of Bill 159 should be granted automatically, upon request to the Minister, to all municipalities that meet specified eligibility criteria.

Further, both the Association and the Province should encourage municipalities to implement their official plans after they have been adopted.

## 4. PLANNING TOOLS

### 4.1 Official Plans

Provisions in Bill 159 relating to official plans are deficient on two accounts. First, AMO believes that the definition of "official plan" is too narrow in scope. Second, the proposed legislation lacks consistency with respect to the need for a municipality to have official plan policies in order to utilize certain planning tools and powers.

The principle planning instrument in the Province of Ontario is the official plan. In addition to the concerns expressed previously to Ministerial intervention in the official plan process, the Association is concerned about the restrictive definition of "official plan" contained in the draft legislation.

As an alternative, AMO suggests the following:

> "official plan" means a document, including schedules, approved by the Minister, containing objectives and policies established to provide guidance for the physical development of a municipality or a part thereof or an area that is without municipal organization and which may include relevant social, economic and environmental matters.

The Association has indicated previously

> "that while the proposed requirement for both considering and taking into account relevant non-physical factors is recognized. AMO believes that municipal planning and the legal document (the official plan) which provides its context must reflect the total community and not simply its physical structure."[7]

Land use decisions which are based on sound physical, social, economic and environmental considerations will more adequately meet the needs of our communities.

Given the fact that many municipalities in Ontario are experiencing minimal or no population growth, the planning challenge confronting them is one of managing and improving what exists. This clearly involves addressing social, economic and environmental issues. The Association believes that an official plan should address these matters. Indeed, many municipalities have adopted such a comprehensive approach, and the fact that Bill 159 now proposes to restrict what is increasingly becoming accepted practice is viewed by AMO as being retrograde.

It is unclear why the Government is proposing to restrict the nature of the official plan, given the fact that previous directives issued by the Province of Ontario have encouraged municipalities to develop social policies. For example, the provision of housing, particularly housing that is subsidized, is viewed by most municipalities as a socio-economic issue as well as a land-use issue. In the past, municipalities have been encouraged to include, in their official plans, municipal housing policy statements that deal with, among other items, the establishing of targets for assisted and special housing units. Similarily the Government has encouraged municipalities to adopt policies and amend zoning bylaws to provide for the establishment of group homes. AMO considers that the provision of assisted and special housing and group homes, are social issues that cannot be construed solely as physical land use matters.

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[7] AMO response to the White Paper on the Planning Act, p. 57.

Changes in population and household patterns and escalating energy, transportation and housing costs, will necessitate a municipal review of present land use policies governing such matters as the location and distribution of employment centres. Municipalities must also address, for example, existing commercial, industrial and public land use policies, and determine whether or not they are compatible with changes occurring in the socio-economic structure of Ontario's communities. AMO believes that more than simply having regard for these factors is essential in the development of an official plan. The Association holds the view that these are significant elements in the municipal planning process.

AMO believes that the official plan must continue to remain the principle planning tool for municipalities in Ontario and strongly objects to Provincial proposals to weaken its effectiveness.

As previously noted, the Association of Municipalities of Ontario adopted eight "planning principles" in 1979 and these have formed the basis for the Association's comments concerning revision of the Planning Act. Principle 4 states in part:

> "All municipalities must have an official plan with clearly stated policies on which planning decisions shall be based."

The Association, in formulating its response to Bill 159, has chosen to depart from this previous position realizing that the preparation and administration of an official plan may be onerous and unnecesssary in situations in which virtually no new development or pressures for development or redevelopment are occurring. However, the Association feels that, where necessary, municipalities should develop and adopt an official plan. Further, the proposed legislation should be consistent in the requirement to have relevant policies in an approved official plan in order to exercise the variety of planning tools proposed to be made available to municipalities under Bill 159.

AMO believes that a local official plan should be able to address social, economic, environmental and physical factors to the degree required by local circumstance. To permit variation in the content and scope of local official plans, it will be incumbent on the Ministry of Municipal Affairs and Housing to modify its present official plan guidelines. AMO believes that such an approach will encourage many municipalities that do not presently have an official plan, to undertake the preparation of one. The development of an official plan under these conditions should not pose an arduous administrative or financial burden for municipalities. However, where it does, AMO believes that the Provincial Government should make available the necessary funding and technical resources to assist these municipalities.

## 4.2 Land Use Controls

AMO supports the provisions of Bill 159 with respect to instituting three levels of development control -- long-term zoning, short-term zoning (interim control and temporary use) and site plan control.

If the Minister decides that a zoning order is required, AMO is of the opinion that one should only be issued following consultation with the affected municipality or planning board (in Northern Ontario). Further, any order issued by the Minister must be in conformity with the official plan of the municipality. Once issued, public notification of the Minister's action must be provided.

One of the greatest concerns with Bill 159 relates to the responsibilities of council with respect to the approval of zoning by-laws and official plans. It would appear that Council will be required to act in a quasi-judicial manner similar to that followed by the Ontario Municipal Board. AMO believes that this would severely hinder the operation of a municipal council, result in major delays in the processing of amendment applications and cause numerous problems for municipal elected representatives who may be accused of being biased when rendering a decision on a development proposal.

Bill 159 would require council to hold a "public meeting" at which all those who attend must be afforded an opportunity to be heard with respect to the application. The common law and the concepts of natural justice indicate that anyone who submits such an application must be permitted a "full and fair hearing". As such, council would be required to act judicially rather than legislatively and only those members of council present for all submissions would be able to vote on that application. The Association contends that these restrictions would be detrimental to both the planning process and the functioning of council generally. Clarification of this issue is required and immediate action is needed to rectify this aspect of Bill 159.

### 4.3 Subdivisions

AMO supports the proposal to transfer the power to approve plans of subdivision from the Province to qualifying upper-tier municipalities and cities outside restructured municipalities. However, the Association does not support the exclusion of lower-tier municipal councils (including those in separated towns) from receiving either the power to approve plans of subdivision or the power to consent to land severances. AMO strongly believes that the exclusion of any municipality which has the capability of administering approvals for plans of subdivision or consents is a serious infringement on the principle of local autonomy. The Association is of the opinion that any municipality which has demonstrated a desire and an ability to administer these two instruments, and which has an official plan policy related to their administration, should be permitted to do so.

The setting of maximum ratios for parkland dedication by the Province also is seen as impinging on local planning. AMO believes that the setting of an appropriate ratio should be done within the context of a municipality's official plan, and should be a matter for municipal determination according to individual need and circumstance. In situations where the municipality's official plan does not contain these ratios the parkland dedication provisions contained in the Planning Act should then apply. Further the five percent dedication provisions which Bill 159 applies to only residential developments should be expanded to include all types of development. Provincial involvement in this matter, as in others, should be limited to instances when published Provincial policy is being contravened.

Where the municipality requires cash-in-lieu of the parkland dedication the value of that land should be negotiated between the municipality and the developer, and should the parties be unable to reach agreement, the provision in Bill 159 related to appeals to the Land Compensation Board should then apply. Also, municipalities should be permitted to negotiate any combination of land and cash-in-lieu in order to better fulfill the needs of the community.

## 5. ONTARIO MUNICIPAL BOARD

The proposals contained in Bill 159 concerning the Ontario Municipal Board (OMB) involve major changes to the present planning system. The Association's concerns with respect to the OMB are of two kinds -- proposed changes in procedure, and proposed changes in jurisdiction.

In a case where a local planning decision is purportedly contravening a Provincial interest the Board would be restricted merely to making recommendations to the Government. Given the Association's recommendations concerning the need for the Province to define "Provincial interest" and to issue policy statements, AMO believes that the OMB, utilizing published, provincial policies, would be well-equipped to serve as an appellate body. The Board's decision on such matters should therefore be final and binding and without appeal, except on points of law.

Some may feel that to be consistent with the principle of political accountability set forth elsewhere in this submission, that the Association should support the proposed provision for Cabinet to ultimately determine those matters which contravene Provincial policy, or indeed an approach by which an appeal of an Ontario Municipal Board decision to the Cabinet would be possible under certain circumstances. In view of the Association's recommendation that Provincial interest be defined as a Cabinet-approved, previously published policy statement, AMO believes that it would be neither desirable nor appropriate for the Cabinet to rule on appeals involving its own policies. The Ontario Municipal Board, as proposed by AMO, would have the responsibility of rendering a decision as to whether a municipal action contravened a Provincial interest. AMO, therefore, maintains its position that appeals to the Cabinet should not be permitted.

Since a major function of the OMB, under the AMO proposal, would be to arbitrate in cases of Provincial/Municipal conflict, it is vital that the composition of the Board not appear to be weighted in favour of either party. AMO recommends that a panel comprised of both provincially and municipally elected representatives and appointed officials be assigned to select nominees for OMB appointments.
Also, the Association believes that the OMB is the appropriate body to arbitrate inter-municipal planning disputes.

## 6. OTHER MATTERS

### 6.1 Streamlining Planning Processes

AMO once again emphasizes the need to eliminate unnecessary delays. The Planning Act must ensure that the planning process in Ontario will operate efficiently and effectively, and that approvals and appeals will be dealt with as quickly as possible. The Association believes that expediting of the process and the reduction of costs are desirable and important goals for which to strive.

The Association does have some concern, however, that the time frames set forth in Bill 159 may not be entirely realistic nor adequate.

The proposed Act contains numerous provisions requiring municipalities to adhere to rather onerous time schedules with regard to notification, hearing and appeal procedures. While the imposition of these rigid time frames may aid in speeding up the approval process at the municipal level, the lack of time restrictions imposed on the Minister and the Ontario Municipal Board with regard to the approval process may jeopardize the goal of timely decision-making.

The Association believes that the OMB should be required, by legislation, to convene a hearing within three months of a referral. AMO also is of the opinion that 30 days following the close of a hearing is sufficient time in which to render a decision. Only through streamlining the process and reducing the time between referrals and hearings, will the objective of timely decision-making be achieved.

Finally, the Association generally supports the proposed procedural revisions to streamline the appeal process and curtail frivolous appeals.

### 6.2 Public Involvement

AMO is pleased that the new Planning Act recognizes the citizen's right

- to information
- to notification
- to hearing, and
- to appeal

At the same time, the Act must give more recognition to local differences by permitting municipalities to provide for public involvement in the way best suited to their needs, resources, and administrative capabilities.

AMO is in favour of full notification requirements, and therefore proposes that not only property owners, but also tenants, have the right to notification.

Finally, in light of the importance and basic role of official plans (including secondary plans) in determining the course of development, the Association firmly believes that the optimum time for public involvement is during their formulation. Public participation at this stage may expedite the subsequent processing of individual planning proposals.

## 7. SUMMARY

As was indicated in the introduction to this submission, the substance of any revised planning legislation is of utmost importance to municipalities in Ontario.

The Association trusts that the Legislative Committee and the Government will heed the collective views of Ontario's municipalities, as set forth in this document, and that AMO's recommendations will have a positive effect on the character and development of a new Planning Act for Ontario.

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# AMO REPORTS

## APPENDIX TO "AMO REPORTS 82-2"

## CLAUSE BY CLAUSE REVIEW OF BILL 159: AN ACT TO REVISE THE PLANNING ACT

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

MARCH 1982

| BILL 159 | AMO RESPONSE |
|---|---|
| HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows: | |
| 1. In this Act, | |
| (a) "committee of adjustment" means a committee of adjustment constituted under section 44; | |
| (b) "land division committee" means a land division committee constituted under section 56; | |
| (c) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof; | |
| (d) "local municipality" means a city, town, village and township; | The definition of "local municipality" should be amended to include all incorporated local municipalities. |
| (e) "Minister" means the Minister of Municipal Affairs and Housing; | |

| BILL 159 | AMO RESPONSE |
|---|---|
| (f) "Municipal Board" means the Ontario Municipal Board; | |
| (g) "municipality" means a local municipality, a county and a regional, metropolitan or district municipality; | AMO believes that the use of the words "local municipality" and the all inclusive term "municipality" in Bill 159 results in considerable confusion in determining the planning authority vested in various types of municipalities. It would be clearer to refer to both "local municipality" and "upper-tier municipality". AMO recommends, therefore, that a definition of "upper-tier municipality" be included in the Act as follows:<br>"upper-tier municipality" means a county and a regional, metropolitan or district municipality;<br>If the recommendation to include a definition of "upper-tier municipality" is accepted the term municipality should be redefined as follows:<br>"municipality" means a local municipality and an upper-tier municipality. |
| (h) "official plan" means a document approved by the Minister containing objectives and policies established primarily to provide guidance for the physical development of a municipality or a part thereof or an area that is without municipal organization, while having regard to such social, economic and environmental matters as appear to be relevant. | Although the definition in Bill 159 has been expanded from that included in the Draft Act, it still does not allow the official plan to contain relevant policies of a social, economic or environmental nature.<br>AMO recommends that the legislation define an official plan as follows: |

| BILL 159 | AMO RESPONSE |
|---|---|
|  | "official plan" means a document, including schedules, approved by the Minister, containing objectives and policies established to provide guidance for the physical development of a municipality or a part thereof or an area that is without municipal organization and which may include relevant social, economic and environmental matters. |
| (i) "prescribed" means prescribed by the regulations; |  |
|  | By not defining "provincial interests", the Province is placing municipalities at a disadvantage in the formulation of an official plan. As such, AMO recommends that the term "provincial interest" as used in Section 2 be defined as follows:<br>"provincial interest" means published policy statements that have received the approval of the Lieutenant Governor in Council; |
| (j) "public work" means any improvement of a structural nature or other undertaking that is within the jurisdiction of the council of a municipality or of a local board; |  |
| (k) "regulations" means regulations made under this Act. |  |
|  | The Association notes that there are a number of definitions that appear elsewhere in the Bill. AMO believes that all definitions in the Bill should be included in Section 1. Therefore, the following definitions that are found elsewhere should be inserted into Section 1. |

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|  | . planning board - Section 11(1)<br>. community improvement - Section 28(1)(a)<br>. community improvement plan - Section 28(1)(b)<br>. community improvement project area - Section 28(1)(c)<br>. former Act - Section 76(1)<br>. unregistered plan of subdivision - Section 52(2)<br>. consent - Section 50(1)<br>. officer - Section 49(1)<br>. mobile home - Section 46(1)(a)<br>. parcel of land - Section 46(1)(b)<br>. dwelling unit - Section 42(2); Section 33(1)(a)<br>. development - Section 41(1)<br>. trailer - Section 34(3)<br>. residential property - Section 33(1)(b)<br>. committee - Section 31(1)(a)<br>. occupant - Section 31(1)(b)<br>. officer - Section 31(1)(c)<br>. owner - Section 31(1)(d)<br>. property - Section 31(1)(e)<br>. repairs - Section 31(1)(f) |
| **PART I PROVINCIAL ADMINISTRATION** |  |
| **2.** The Minister, in carrying out his responsibilities under this Act, will have regard to, among other matters, matters of provincial interest such as, | AMO recommends that the phrases "among other matters" and "such as" be deleted from Section 2, and, that subsections a-h also be deleted since "provincial interest" would be defined as suggested in Section 1. |

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| (a) the protection of the natural environment, including the agricultural resource base of the Province, and the management of natural resources; | |
| (b) the protection of features of significant natural, architectural, historical, or archealogical interest; | |
| (c) the supply, efficient use and conservation of energy; | |
| (d) the provision of major communication, servicing and transportation facilities; | |
| (e) the equitable distribution of educational, health and other social facilities; | |
| (f) the co-ordination of planning activities of municipalities and other public bodies; | |
| (g) the resolution of planning conflicts involving municipalities and other public bodies; | |
| (h) the protection of the financial and economic well-being of the Province and its municipalities. | |

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| **3.** (1) The Minister may from time to time issue policy statements that have been approved by the Lieutenant Governor in Council on matters relating to municipal planning that in the opinion of the Minister are of provincial interest, and any other Minister of the Crown may, jointly with the Minister, issue such policy statements. | |
| (2) Before issuing a policy statement the Minister shall confer with such municipal, provincial, federal or other officials, and bodies or persons as he considers have an interest in the proposed statement. | Although sub-section 3(2) recognizes that some form of consultation should be undertaken prior to the issuance of provincial policy statements, it fails to make such action mandatory. Also, it is uncertain what is meant by the term "municipal officials". The Association believes that draft Provincial policies must be circulated to municipalities for review and comment prior to formal issuance and publication. Therefore, the Association recommends that subsection 3(2) be amended to read:<br>"...the Minister shall confer with municipalities and may confer with such provincial..."<br>Also, the Association suggests that the Minister be required to review such policy statements from time to time. |
| (3) Where a policy statement is issued under subsection (1), the Minister shall give notice or cause to be given notice thereof, in such manner as he considers appropriate, to all municipalities and to such other agencies or persons as he considers have an interest in the statement. | |
| (4) Each municipality that receives notice of a policy statement under subsection (3) shall in turn give notice of the statement of each local board of the municipality that it considers has an interest in the statement. | |

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| (5) In exercising any authority that affects any planning matter, the council of every municipality, every local board, every Minister of the Crown, every ministry, board, commission or agency of the government, including the Municipal Board and Ontario Hydro, shall have regard to policy statements issued under subsection (1). | |
| **4.** (1) The Minister on the request of the council of any municipality may by order delegate to the council any of the Minister's authority under this Act, under section 50 of The Condominium Act, under subsection 298 (11) and subsection 306 (2) of The Municipal Act, under subsection 82 (3) of The Registry Act and under section 145 of The Land Titles Act and where the Minister has delegated any such authority, the council has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the council shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. | The Association recommends that the words "after consultation with those municipalities affected," be added after the word "may".<br>AMO further recommends that municipal planning authority be delegated to the municipal level on request, provided the municipality receiving the authority has met legislated criteria.<br>The Association believes that municipalities should not be delegated the authority to approve their own official plans. |
| (2) The Minister may by order delegate to a planning board of a planning area in a territorial district any of the Minister's authority under this Act and where the Minister has delegated any such authority the planning board has, in lieu of the Minister, all the powers and rights of the Minister in respect thereof and the planning board shall be responsible for all matters pertaining thereto, including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. | The Association suggests that subsection 4(2) be amended by adding the words "on the request of the planning board" after the word "Minister" in the first line. |

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(3) A delegation made by the Minister under subsection 1 or 2 may be subject to such conditions as the Minister may by order provide.

(4) The Minister may by order withdraw any delegation made under subsection 1 or 2 and, without limiting the generality of the foregoing, such withdrawal may be either in respect of one or more applications for approval specified in the order or in respect of any or all applications for approval made subsequent to the withdrawal of the delegation and immediately following any such withdrawal the council or the planning board, as the case may be, shall forward to the Minister all papers, plans, documents and other material in the possession of the municipal corporation or the planning board that relate to any matter in respect of which the authority was withdrawn and of which a final disposition was not made by the council or the planning board prior to such withdrawal.

5. (1) Where the Minister has delegated any authority to a council under Section 4, such council, may, in turn, by by-law, and subject to such conditions as may have been imposed by the Minister, delegate any of such authority, other than the authority to approve official plans and amendments thereto, to a committee of council or to an appointed officer identified in the by-law either by name or position occupied and such committee or officer as the case may be has, in

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| lieu of the Minister, all the powers and rights of the Minister in respect of such delegated authority and shall be responsible for all matters pertaining thereto including, without limiting the generality of the foregoing, the referral of any matter to the Municipal Board. | |
| (2) A delegation made by a council under subsection (1) may be subject to such conditions as the council may by by-law provide and as are not in conflict with any condition provided by order of the Minister under section 4. | |
| (3) A council may by by-law withdraw any delegation made under subsection (1) and the provisions of subsection 4 (4) apply with the necessary modifications. | |
| **6.** (1) In this section, "ministry" means any ministry or secretariat of the Government of Ontario and includes a board, commission or agency of the Government and Ontario Hydro. | In accordance with the previously stated position of the Association, all definitions should be included in Section 1. |
| (2) A ministry before carrying out or authorizing any undertaking that the ministry considers will directly affect any municipality, shall consult with, and have regard for established planning policies of the municipality. | The Association is unsure of the meaning of the phrase "have regard for". It is suggested that this phrase be deleted and replaced by the words "comply with". |
| **7.** The Minister may, out of the moneys appropriated therefor by the Legislature, make grants of money to assist in the performing of any duty or function of a planning nature. | |

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## PART II LOCAL PLANNING ADMINISTRATION

**8.** (1) The council of a municipality may appoint a planning advisory committee composed of such persons as the council may determine.

(2) The councils of two or more municipalities may appoint a joint planning advisory committee composed of such persons as the councils may by agreement determine.

(3) Persons appointed to a committee under this section may be paid such remuneration and expenses as the council or councils may determine where a joint committee is appointed, the councils may by agreement provide for apportioning to their respective municipalities, the costs of the payments.

**9.** (1) The Minister may define and name a planning area consisting of the whole of two or more municipalities that are situated in a territorial district or consisting of the whole of one or more municipalities and territory without municipal organization.

(2) Where a planning area is defined under subsection (1), the Minister shall establish the planning board for the planning area and specify the name of the board and the number of members to be appointed to it by the council of each municipality within the planning area and the number of members, if any, to be appointed by the Minister.

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(3) The council of each municipality shall appoint to the planning board the number of members specified by the Minister under subsection (2), of which members at least one shall be a member of the council of the municipality and, after the initial appointments, the appointments shall be made by each successive council as soon as practicable after the council is organized.

(4) The members,

- (a) appointed by the council of each municipality shall hold office for the term of the council that appointed them; and
- (b) appointed by the Minister shall hold office for the term specified by the Minister in their appointment,

and until their successors are appointed.

**10.** The Minister may define and name a planning area consisting of territory without municipal organization and may establish and name a planning board for the planning area and appoint the members thereof.

**11.** (1) A planning board is a body corporate and a majority of its members constitutes a quorum.

(2) A planning board shall annually elect a chairman and a vice-chairman who shall preside in the absence of the chairman.

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| (3) A planning board shall appoint a secretary-treasurer who may be a member of the Board and may engage such employees and consultants as is considered appropriate. | |
| (4) The execution of documents by a planning board shall be evidenced by the signatures of the chairman or the vice-chairman and of the secretary-treasurer, and the corporate seal of the board. | |
| **12.** (1) A planning board established by the Minister for a planning area consisting of one municipality and territory without municipal organization shall submit annually to the council of the municipality an estimate of its financial requirements for the year and the council may amend such estimate and shall pay to the secretary-treasurer of the planning board out of the moneys appropriated for the planning board such amounts as may be requisitioned from time to time. | |
| (2) In the case of a planning board established for a planning area consisting of two or more municipalities or consisting of two or more municipalities and territory without municipal organization, the planning board shall annually submit its estimates to the council of each of such municipalities together with a statement as to the proportion thereof to be chargeable to each municipality. | |
| (3) If the estimates submitted under subsection (2) are approved, or are amended and approved, by the councils of municipalities representing more than one-half of the population of the planning area for which the board was established, the estimates are binding on all the municipalities. | |

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| (4) After the estimates have been approved as provided in subsection (3), the planning board shall so notify each municipality involved and shall notify each such municipality of the total approved estimates and the amount thereof chargeable to it, based on the apportionment set out in the statement submitted under subsection (2). | |
| (5) If the council of any municipality is not satisfied with the apportionment, it may, within fifteen days after receiving the notice under subsection (4), notify the planning board and the secretary of the Municipal Board that it desires the apportionment to be made by the Municipal Board. | |
| (6) The Municipal Board shall hold a hearing and determine the apportionment and its decision is final. | |
| (7) Each municipality shall pay to the secretary-treasurer of the planning board such amount as may be requisitioned from time to time up to the amount determined by the planning board under subsection (4) or by the Municipal Board under subsection (6), as the case may be. | |
| 13. Any municipality within a planning area may make grants of money to the planning board of the planning area. | |

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| **14.** (1) A planning board shall provide advice and assistance in respect of such planning matters affecting the planning area as are referred to the board,<br>(a) by the councils to which the board submits its estimates under section 12, or by any of such councils; or<br>(b) by the Minister, in the case of a planning board appointed for a planning area consisting solely or partially of territory without municipal organization.<br>(2) A planning board shall prepare a plan suitable for adoption as the official plan of the planning area or at the request of any of the councils mentioned in subsection (1), prepare a plan suitable for adoption as the official plan of the municipality of which it is the council. | |
| 15. The council of a county or of a regional, metropolitan or district municipality on such terms and conditions as may be agreed upon with the council of a local municipality that for municipal purposes forms part of the county or that forms part of the regional, metropolitan or district municipality, as the case may be, may,<br>(a) assume any authority, responsibility, duty or function of a planning nature that the local municipality has under this or any other Act; or | Notwithstanding Section 17 there is concern that this section may be construed to take away from counties the authority to formulate and adopt an official plan without first obtaining the consent of each of the local municipalities. |

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| (b) provide advice and assistance to the local municipality in respect of planning matters generally. | The Association considers clause 15(b) to be unnecessary given the wording used in clause 15(a). Also the inclusion of Section 15(b) may unduly restrict upper-tier municipalities from assisting local municipalities with planning matters by requiring some type of formal agreement before any assistance can be given. |
| **PART III OFFICIAL PLANS** | |
| **16.** In addition to the objectives and policies referred to in clause 1 (h) an official plan may contain a description of;<br>(a) the measures and procedures proposed to attain the objectives of the plan;<br>(b) the measures for informing and securing the views of the public in respect of the proposed objectives and policies for the plan; and<br>(c) the measures for reviewing the official plan from time to time. | The Association recommends that the introduction to this Section be changed to read as follows:<br>"...an official plan shall contain;" |

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| **17.** (1) The council of a municipality may provide for the preparation of a plan suitable for adoption as the official plan of the municipality. | The Association, in formulating its response to Bill 159, has chosen to depart from its previous position realizing that the preparation and administration of an official plan may be onerous and unnecessary in situations in which virtually no new development or pressures for development or redevelopment are occurring. However, the Association believes that it is essential that upper-tier municipalities develop and adopt an official plan. Further, local municipalities should be required to have relevant policies in an approved official plan in order to exercise the variety of planning tools proposed to be made available to municipalities under Bill 159. |
| (2) The council, before adopting a plan, that has been prepared,<br>(a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where council will hold a meeting to consider the adoption of the plan which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and | Common law and the concepts of natural justice place the onus on the council of the municipality to hold a "full and fair hearing" with respect to applications submitted under Sections 17, 28 and 34 of Bill 159. This requires council to act in a judicial rather than a legislative manner and this will undoubtedly result in serious delays in the planning process. |

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| | The Association believes that Bill 159, in its present form, will result in substantial time delays in instances where council wishes to make non-substantive changes to an offical plan or zoning by-law after the "public meeting", required by subsection 17(2). Bill 159 would require council to give a further thirty days notice and hold another "public meeting" to discuss these changes. To alleviate these anticipated time delays the Association proposes that provisions be added to Bill 159 to permit council to make changes of a non-substantive nature without giving notice or conducting a further "public meeting".<br>Also in order to remove the necessity for council to conduct the required public meeting in a quasi-judicial manner the Bill should be amended to permit council to delegate the holding of such meetings and to provide that a member of council is eligible to vote on a proposed bylaw or official plan matter notwithstanding that the member of council was not present at the public meeting required under Sections 17, 28 and 34.<br>Also, the thirty day period required for notice of public meetings should be deleted from the legislation. Council should be permitted to determine their own prior notice provisions for public meetings. |

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| (b) shall, in the manner and to the agencies and containing the information prescribed, give notice that council is considering the adoption of the plan. | The regulations pertaining to this and other sections throughout Bill 159 should be distributed to all municipalities for review and comment, as part of a provincial/municipal consultative process, prior to their adoption by Cabinet. |
| (3) The meeting mentioned in clause (2) (a) shall be open to the public and the council shall afford any person who attends the meeting an opportunity to be heard in respect of the adoption of the proposed plan. | The Association recommends that the word "reasonable" be added before the word "opportunity" in this subsection. |
| (4) An agency may, within thirty days of the giving of the notice mentioned in clause (2) (b)or within such further period of time as the council may subsequently allow, submit comments | AMO recommends that the word "written" be added to this section before the word "comments". |
| (5) After the meeting mentioned in clause (2) (a) has been held and after the time for submitting comments under subsection (4) has elapsed, the council when it is satisfied that the plan as finally prepared is suitable for adoption, may by by-law adopt the plan and submit it to the Minister for approval. | AMO recommends that the word "written" be added before the word "comments" in this subsection. |
| (6) When the plan is adopted the clerk of the municipality shall compile and forward to the Minister a record which shall include,<br>(a) a certified copy of the by-law adopting the plan; | |

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| (b) an affidavit or declaration duly sworn certifying that the requirement for the giving of notice as mentioned in subsections (2) and (7) have been complied with; | |
| (c) the original or a true copy of all written submissions and material in support of the submissions received prior to the adoption of the plan and of all comments received from agencies under subsection 4; and | AMO recommends that the word "written" be added before the word "comments" in this subsection. |
| (d) such other information or material as the Minister may require. | |
| (7) Where the council adopts the plan, the clerk of the municipality shall, not later than ten days after the day the plan was adopted, give written notice of the adoption of the plan to the Minister, to every person who filed with the clerk at the meeting mentioned in clause (2) (a) or at any time prior thereto, a written request to be notified if the plan is adopted and to every agency that submitted comments under subsection (4) and that in writing requested to be notified if the plan is adopted. | The Association is concerned that adequate time be afforded those responsible for giving notice so as not to jeopardize the actions of any council due solely to the fact that the time periods specified in the Act have not been complied with. Therefore, the Association recommends that the ten day period specified in subsection 17(7) be changed to fifteen (15) days.<br>Also, AMO recommends that the word "written" be added before the word "comments" in this subsection. |
| (8) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies or persons as the Minister considers may have an interest in the approval of the plan and, subject to subsection (10) may then | |

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approve, or, after consultation with the council, refuse to approve the plan or, if modifications appear desirable to the Minister, he may, after consultation with the council, make the modifications to the plan and approve the plan as modified.

(9) The Minister, instead of approving the whole of the plan, may approve part only of the plan and may, from time to time, approve additional parts of the plan, provided that nothing herein derogates from the right of any person to request the Minister to refer any part of the plan to the Municipal Board under subsection (10).

(10) The Minister may refer the plan or any part of the plan to the Municipal Board and where the council or any person or agency requests the Minister, within thirty days from the date the plan was adopted, to refer the plan or any part of the plan to the Municipal Board, the Minister shall refer the plan or such part to the Municipal Board, together with the statement mentioned in subsection 11 unless in his opinion, referral to the Municipal Board would serve no useful purpose or unless, in his opinion, the request is made only for the purpose of delay.

(11) Where a person submits a request to the Minister under subsection (10) he shall include therewith a statement in writing setting out the reasons for the request.

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(12) The parties to a referral are the person or agency, if any, that requested the referral, the municipality and any person or agency added as a party by the Municipal Board.

(13) The Municipal Board may add as a party to the referral any person, including the Minister or agency, who applies to the Board to be added as a party.

(14) Despite the fact that a person is not a party to the referral, the Municipal Board may permit the person to make representations at the hearing.

(15) On a referral to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the parties to the referral, and to such other persons as the Board considers appropriate.

(16) The Municipal Board may, on the basis of the statement mentioned in subsection (11), the record mentioned in subsection (6) and such other matters as the Board considers proper to take into account, establish the issues that are in dispute in a referral and where the Board does so a party to the referral may not, except with the leave of the Board, introduce at the hearing any evidence or present any argument that is not relevant to the issues in dispute as established by the Board.

(17) The Municipal Board may make any decision that the Minister could have made.

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| (18) Where the plan or any part of the plan is referred to the Municipal Board under subsection 10, the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the plan or the part thereof, may so advise the Municipal Board in writing not later than ten days before the day fixed by the Board for the hearing of the referral and the Minister shall identify the part or parts of the plan or the part or parts of the part of the plan, as the case may be, by which the provincial interest is, or is likely to be adversely affected. | AMO disagrees with the intent of Subsections (18) to (20). The Association believes that the Minister must be required to refer matters which he considers to be in conflict with previously published Provincial policy to the OMB for a final ruling if the Municipal council refuses the Minister's request to amend its official plan. In addition, the Minister should be required to follow the same appeal procedures as any other party and advise the Municipal Board in writing at the time of the referral. Further, the Minister should be required to identify not only the parts of the plan which are expected to have an adverse effect on provincial interests but also the reasons why a particular part or parts of the plan would have an adverse effect. |
| (19) Where the Municipal Board receives notice from the Minister under subsection (18), the Board shall not proceed under subsection (17) in respect of the part or parts identified in the notice but shall, following the hearing, make a report to the Lieutenant Governor in Council setting out its findings and recommendations in respect of such part or parts and shall send a copy of the report to the Minister, to each party to the referral and to any person who in writing requests a copy of the report. | |
| (20) After considering the report of the Board, the Lieutenant Governor in Council shall make a final disposition of the part or parts dealt with in the report and in so doing may direct the Minister to modify the plan or the part of the plan in accordance with such final disposition. | |

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18. (1) Where a plan is prepared by a planning board the plan shall not be recommended to any council for adoption as an official plan unless it is approved by a vote of the majority of all the members of the planning board.

(2) When the plan is approved by the planning board, the board shall submit a copy thereof, certified by the secretary-treasurer of the board to be a true copy,

(a) in the case of a plan prepared for a planning area, to the council of each municipality that is within the planning area; and

(b) in the case of a plan prepared at the request of a single municipality, to the council of that municipality,

together with a recommendation that it be adopted by the council.

(3) Each council to which the plan is submitted may, subject to subsections 17 (2) to (5) by by-law adopt the plan and the clerk of each municipality the council of which adopted the plan shall provide the secretary-treasurer of the planning board with a certified copy of the adopting by-law and shall comply with subsections 17 (6) and (7).

(4) When the secretary-treasurer of the planning board has received a certified copy of an adopting by-law from a majority of the councils to which the plan was submitted he shall submit the plan to the Minister for approval together with each certified copy of the adopting by-law, and thereafter subsections 17 (8) to (20) apply.

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(5) Where a planning area consists of the whole of one or more municipalities and territory without municipal organization, the provisions of subsections 17 (3) to (20) apply, with the necessary modifications, in respect of the part of the planning area that consists of territory without municipal organization as though the planning board were the council of a municipality and the secretary-treasurer of the planning board were the clerk of the municipality.

**19.** Before adopting a plan for a planning area consisting solely of territory without municipal organization, the planning board,

(a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where the board will hold a meeting to consider the adoption of the plan which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and

(b) shall, in the manner and to the agencies and containing the information prescribed, give notice that the board is considering the adoption of the plan,

and thereafter subsections 17 (3) to (20) apply, with the necessary modifications, as though the planning board were the council of a municipality and the secretary-treasurer were the clerk of the municipality.

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| **20.** (1) Two certified copies of the official plan shall be lodged in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister and a duplicate original of the official plan shall be lodged in every land registry office of lands to which the plan applies.<br>(2) The lodging required by subsection 1 shall be carried out,<br>(a) in the case of an official plan that applies to only one municipality or part thereof or to only one municipality and territory without municipal organization, by the clerk of the municipality; and<br>(b) in the case of an official plan that applies to more than one municipality or parts thereof, by the clerk of the municipality that has the largest population.<br>(3) All copies and duplicate originals lodged under subsection (1) shall be available for public inspection during office hours. | AMO would indicate that Section 20 does not appear to cover the lodging of a plan prepared by a planning board for a planning area consisting solely of territory without municipal organization. Presumably such a plan would have to be lodged both with the Minister and with the appropriate registry office. |

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| **21.** (1) Except as hereinafter provided, the provisions of this Act with respect to an official plan apply, with the necessary modifications, to amendments thereto or the repeal thereof, provided that the council of a municipality that is within a planning area may initiate an amendment to or the repeal of any official plan that applies to the municipality, and the provisions of section 17 apply to any such amendment or repeal. | AMO concurs with the concept of applying the same approval procedures to official plan amendments as are used for the approval of the official plan itself. |
| (2) Where the Minister is satisfied that there is not a matter of provincial interest adversely affected by an amendment to an official plan submitted to him for approval and no request for referral has been received under subsection 17 (10) he may, in writing, waive the requirement for approval thereof, whereupon the amendment shall be deemed to be approved. | The Association believes that, where there are no matters of published Provincial policy involved, and where there are no requests for referral under Subsection 17 (10) that the Minister should so state, and in doing so, should approve the official plan. The Association is concerned that the perceived or actual status of an amendment not be reduced in any way. |
| **22.** (1) Where any person requests a council to initiate an amendment to an official plan, other than an official plan that applies in whole or in part to territory without municipal organization, and the council refuses to adopt the amendment or fails to adopt it within thirty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board. | Section 22(1) requires the council to make a decision on an application within 30 days of receiving such application. Subsection 21(1) applies the notice requirements of Subsection 17(2) to any such application. This requires council to hold a public meeting prior to adopting any such amendment and further, that the public be given a minimum of 30 days notice. As such, it is impossible to comply with both provisions. The Association suggests that a more reasonable time period for making such a decision would be ninety (90) days and that where the council refuse the application or fails to make a decision within the 90 day period, that the applicant be given a period of |

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| | thirty (30) days from the date of the decision or the end of the 90 day period, in which to request the Minister to refer the application for amendment to the OMB. |
| | The phrase "or planning board" should be added to subsection 22(1) after the wording "...requests a council...". This would cover a situation where the Minister has established a planning board comprised of two or more municipalities but which does not include any territory without municipal organization. |
| (2) Where any person requests a planning board to initiate an amendment to an official plan that applies in whole or in part to territory without municipal organization and the planning board refuses to adopt the amendment or to recommend the amendment for adoption, as the case may be, or fails to adopt or recommend it within thirty days from the receipt of the request, such person may request the Minister to refer the proposed amendment to the Municipal Board. | With respect to subsection 22(2), the same provisions should apply to this subsection as are suggested for subsection 22(1). |
| (3) The Minister may confer on the proposed amendment in like manner as he is authorized to confer under subsection 17 (8) and he may refuse the request to refer the proposed amendment to the Municipal Board or may refer the proposed amendment to the Board. | |
| (4) The provisions of subsections 17 (12) to (16) apply with any necessary modifications when a proposed amendment is referred to the Municipal Board under subsection (3) and the Board shall hold a hearing and thereafter reject the proposed amendment or direct that the council cause the | AMO concurs but feels that the wording used with respect to the action to be taken by the Board should be consistent between subsection 17(17) which refers to the Board making a decision and this subsection which refers to an "order of the Board". |

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| amendment to be made in the manner provided in the order of the Board. | |
| (5) Where a proposed amendment is referred to the Municipal Board under subsection (3), the Minister, if he is of the opinion that a matter of provincial interest is, or is likely to be adversely affected by the proposed amendment, may so advise the Municipal Board in writing not later than ten days before the day fixed by the Board for the hearing of the referral and the Minister shall identify the part or parts of the proposed amendment by which the provincial interest is, or is likely to be, adversely affected. | The Association disagrees with the intent of subsections 22(5) to 22(7). The Association feels that the Minister must be required to refer matters which he considers to be in conflict with previously published Provincial policy to the OMB for final ruling if a proposed amendment would adversely affect a provincial interest. Further, the Minister should be required to follow the same appeal procedures as any other party and advise the Municipal Board in writing at the time of the referral. In addition, the Minister should be required when referring the matter to the OMB to identify not only the part(s) of the proposed amendment that would adversely affect a provincial interest but also why it would do so. |
| (6) Where the Municipal Board received notice from the Minister under subsection (5), the Board shall not proceed under subsection (4) in respect of the part or parts identified in the notice but shall, following the hearing, make a report to the Lieutenant Governor in Council setting out its finding and recommendations in respect of such part or parts and shall send a copy of the report to the Minister, to each party to the referral and to any person who, in writing, requests a copy of the report. | |
| (7) After considering the report of the Board, the Lieutenant Governor in Council shall make a final disposition of the part or parts dealt with in the report and in so doing may direct the Minister to modify the plan or the part of the plan in accordance with such final disposition. | |

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| **23.** (1) Where the Minister is of the opinion that a matter of provincial interest, as set out in a policy statement issued under section 3, is or is likely to be adversely affected by an official plan the Minister may request the council of a municipality to adopt such amendment as the Minister specifies to an official plan and where the council refuses the request or fails to adopt the amendment within such time as is specified by the Minister in his request, the Minister may make the amendment. | AMO recommends the deletion of the entire Section. The Minister should be required to follow the procedures outlined in Section 22. If the municipality does not amend its official plan, as requested, the matter shall be referred to the OMB for a final, binding decision. |
| (2) Where the Minister proposed to make an amendment to an official plan under subsection (1), the Minister may, and on the request of any person or municipality, shall request the Municipal Board to hold a hearing on the proposed amendment and the Board shall thereupon hold a hearing as to whether the amendment should be made. | |
| (3) Despite subsection (2), where the Minister is of the opinion that a hearing by the Municipal Board would serve no useful purpose or that the request is made only for the purpose of delay, he may refuse the request. | |
| (4) Where the Minister has requested the Board to hold a hearing as provided for in subsection (2) notice of the hearing shall be given in such manner and to such persons as the Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board. | |

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(5) At the conclusion of the hearing, the Board shall make a report to the Minister in which shall be set out the Board's findings and recommendations in respect of the proposed amendment and shall send a copy of the report to each person who appeared at the hearing and made representation on the matter and to any person who, in writing, requests a copy of the report.

(6) After considering the report of the Board, the Minister may make such amendment, if any, as considered appropriate.

**24.** (1) Despite any other general or special Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsections (2) and (4), no by-law shall be passed for any purpose that does not conform therewith.

(2) Where a council has adopted an amendment to an official plan, it may, before the Minister has approved the amendment, pass a by-law that does not conform with the official plan but will conform therewith if the amendment is approved, and the by-law shall be conclusively deemed to have conformed with the official plan on and from the day it was passed if the Minister approves the amendment to the official plan.

(3) Despite subsections (1) and (2), the council of a municipality may take into consideration the undertaking of a public work that does not conform with the official plan and for that purpose the council may apply for any approval that may be required for the work, carry out any investigations, obtain any reports or take other

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preliminary steps incidental to and reasonably necessary for the undertaking of the work, but nothing in this subsection authorizes the actual undertaking of any public work that does not conform with an official plan.

(4) Where a by-law is passed under section 34 by the council of a municipality in which an official plan is in effect and, within the time limited for appeal,

(a) no appeal is taken; or

(b) an appeal is taken and the appeal is dismissed or the by-law is amended as directed on the appeal,

the by-law shall be conclusively deemed to be in conformity with the official plan, except that where the by-law is passed in the circumstances mentioned in subsection (2) the by-law shall be conclusively deemed to be in conformity with the official plan on and from the day the by-law was passed, if the Minister approves the amendment to the official plan as mentioned in subsection (2).

**25.** (1) If there is an official plan in effect in a municipality that includes provisions relating to the acquisition of land, which provisions have been approved by the Minister after the 28th day of June, 1974, the council may, in accordance with such provisions, acquire and hold land within the municipality for the purpose of developing any feature of the official plan, provided that any land so acquired or held may be sold, leased or otherwise disposed of when no longer required.

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| (2) Any municipality may contribute towards the cost of acquiring land under this section. | The Association recommends that the words "and servicing" be added to subsection 25(2) after the word "acquiring". Also, the provisions in Section 59 to allow municipalities to undertake the clearing, grading and otherwise preparing land for development should be added as a subsection of Section 25. |
| **26.** (1) The council of every municipality that has adopted and had approved an official plan shall, from time to time, and not less frequently than every five years, hold a special meeting of council, open to the public, for the purpose of determining the need for a review of the official plan.<br>(2) Despite subsection (1) the Minister may, at any time, direct the council of a municipality to undertake a review of any official plan or part thereof in effect in the municipality and when so directed the municipal council shall cause the review to be undertaken without undue delay. | The Association suggests that this Section is redundant given the provisions of subsection 16(c) and the previous AMO recommendation that official plan "shall" contain "measures for reviewing the official plan, from time to time". |
| **27.** (1) When the Minister has approved an official plan adopted by a county or by a regional, metropolitan or district municipality,<br>(a) every official plan; and | |

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| (b) every zoning by-law passed under section 34 of this Act or a predecessor thereof,<br>that is then in effect in the area affected by the county, regional, metropolitan or district plan shall be amended to conform therewith. | |
| (2) Where an official plan is approved as mentioned in subsection (1) and any official plan or zoning by-law is not amended as required by that subsection within one year of the approval of the plan, the council of the county or of the regional, metropolitan or district municipality may thereupon amend the official plan or zoning by-law, as the case may be, in like manner and subject to the same requirements and procedures as if such council was the council that failed to make the amendment within the one year period as herein required. | The Association suggests that the authority provided to upper-tier municipalities in Subsections 27(2) and (3), to amend the official plan and zoning by-law of a local municipality to bring it into conformity with the upper-tier plan, would rarely be used. Also, the Association believes that the one year period provided for in Bill 159, to allow local municipalities to bring their official plan and zoning by-law into conformity with the upper-tier plan, may not be sufficient time. |
| (3) Where an amending by-law is passed under subsection (2) by the council of a county or the council of a regional, metropolitan or district municipality, the amending by-law shall be deemed for all purposes to be a by-law passed by the council of the municipality that passed the by-law that was amended. | |

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| **PART IV COMMUNITY IMPROVEMENT** | |
| **28.** (1) In this section,<br>(a) "community improvement" means the planning or replanning, design or redesign, resubdivision, clearance, development or redevelopment, reconstruction and rehabilitation, or any of them, of a community improvement project area, and the provision of such residential, commercial, industrial, public, recreational, institutional, religious, charitable or other uses, buildings, works, improvements or facilities, or spaces therefor, as may be appropriate or necessary; | In accordance with AMO's previous comments, all definitions should be contained in Section 1. |
| (b) "community improvement plan" means a general scheme, including supporting maps and texts, approved by the Minister under section 17 as part of an official plan for the community improvement of a community improvement project area. | Like the Draft Planning Act, Bill 159 proposes that community improvement plans be treated as amendments to or as part of the official plan and therefore they are subject to the same notification, hearing and appeal procedures as the official plan. Unlike the present Act which provides some flexibility in the preparation and adoption of revitalization schemes, Bill 159 would subject these plans to unnecessary review and approval procedures for even minor amendments. The Association believes that if municipalities are required to adopt policies in their official plans related to community improvement and provided community improvement plans are required to be in conformity with official plans, that such plans should not be subject to the same approval |

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| | provisions as official plans. Further, many community improvement programs are funded, to some extent, by the provincial and/or federal government and are subject to administrative guidelines or specific program requirements as established by these governments. This provides an additional opportunity for the imposition of more or less stringent program requirements if it is deemed appropriate to do so. |
| | Therefore, AMO recommends that the words "approved by the Minister under Section 17 as part of an official plan" be deleted from this subsection. |
| (c) "community improvement project area" means an area within a municipality, the community improvement of which in the opinion of the council is desirable because of age, dilapidation, overcrowding, faulty arrangement, unsuitability of buildings or for any other reason; | |
| (2) Where there is an official plan in effect in a local municipality that contains provisions outlining a strategy for community improvement in the municipality, the council may, by by-law, designate the whole or any part of an area covered by such an official plan as a community improvement project area. | AMO believes that municipalities should develop community improvement policies and appraisal methods to guide redevelopment within the municipality and that these should be adopted as part of an official plan. The Association does not believe however that it is sensible to enshrine in legislation that "a strategy for community improvement" be included in an official plan as a requirement for designating a community improvement project area when in fact this term has not yet been defined nor has it been established what "a strategy for |

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| | community improvement" should contain. The Association would suggest that before such a requirement is utilized with respect to community improvement programs, that the Province in conjunction with the Association define what such a strategy would comprise and develop guidelines for the development and adoption of community improvement strategies. The requirement to develop and adopt such a strategy could then be used as a requirement for participation in cost-shared programs.<br>Therefore, the Association suggests that the words "provisions outlining a strategy for" be deleted and replaced by the words "policies generally related to" in this subsection. |
| (3) When a by-law has been passed under subsection (2), the municipality may,<br>(a) acquire land within the community improvement project area with the approval of the Minister if the land is acquired before the community improvement plan mentioned in subsection (4) is approved and without the approval of the Minister if the land is acquired after the community improvement plan is approved;<br>(b) hold land acquired before or after the passing of the by-law within the community improvement project area; and | |

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| (c) clear, grade or otherwise prepare the land for community improvement. | |
| (4) When a by-law has been passed under subsection (2), the council may provide for the preparation of a plan as part of an official plan suitable for adoption as a community improvement plan for the community improvement project area. | In accordance with its comments on subsection 28(1)(b), the Association recommends that the words "as part of an official plan" be deleted from subsection 28(4). |
| (5) The Minister may, in writing, deem the provisions outlining a strategy for community improvement mentioned in subsection (2) to be a community improvement plan for the purposes of this section. | |
| (6) For the purpose of carrying out the community improvement plan, the municipality may,<br>(a) construct, repair, rehabilitate or improve buildings on land acquired or held by it in the community improvement project area in conformity with the community improvement plan, and sell, lease or otherwise dispose of any such buildings and the land appurtenant thereto;<br>(b) sell, lease or otherwise dispose of any land acquired or held by it in the community improvement project area to any person or governmental authority for use in conformity with the community improvement plan. | |

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| (7) For the purpose of carrying out the community improvement plan, the municipality may make grants or loans to the registered owners or assessed owners of lands and buildings within the community improvement project area to pay for the whole or any part of the cost of rehabilitating such lands and buildings in conformity with the community improvement plan. | |
| (8) The provisions of subsections 32 (2) and (3) apply with the necessary modifications to any loan made under subsection (7) of this section. | |
| (9) Until a by-law or amending by-law passed under section 34 after the adoption of the community improvement plan is in force in the community improvement project area, no land acquired, and no building constructed, by the municipality in the community improvement project area shall be sold, leased or otherwise disposed of unless the person or authority to whom it is disposed of enters into a written agreement with the municipality that he will keep and maintain the land and building and the use thereof in conformity with the community improvement plan until such a by-law or amending by-law is in force, but the municipality may, during the period of the development of the plan, lease any land or any building or part thereof in the area for any purpose, whether or not in conformity with the community improvement plan, for a term of not more than three years at any one time. | |

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| (10) An agreement entered into under subsection (9) may be registered against the land to which it applies and the municipality shall be entitled to enforce the provisions thereof against any party to the agreement and, subject to the provisions of The Registry Act and The Land Titles Act, against any and all subsequent owners or tenants of the land. | |
| (11) Despite subsection 143 (1) of The Municipal Act, debentures issued by the municipality for the purpose of this section may be for such term of years as the debenture by-law, with the approval of the Municipal Board, provides. | |
| (12) When the council is satisfied that the community improvement plan has been carried out, the council may, by by-law, dissolve the community improvement project area. | |
| **29.** A municipality, with the approval of the Minister, may enter into any agreement for the carrying out of studies and the preparation and implementation of plans and programs for the development or improvement of the municipality. | AMO is concerned that this particular Section of Bill 159, as it is presently written, would require a municipality to obtain the Minister's approval to undertake any study of a planning nature which was not to be completed entirely by the staff of the municipality.<br>The Association recommends that the words "with the approval of the Minister" be deleted. |
| **30.** The Minister, with the approval of the Lieutenant Governor in Council, and a municipality may enter into agreement providing for payment to the municipality on such terms and conditions and in such amounts as may be approved by the Lieutenant Governor in Council to assist in the | |

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| community improvement of a community improvement project area as defined in section 28, including the carrying out of studies for the purpose of selecting areas for community improvement. | |
| **31.** (1) In this section,<br>(a) "committee" means a property standards committee established under this section;<br>(b) "occupant" means any person or persons over the age of eighteen years in possession of the property;<br>(c) "officer" means a property standards officer who has been assigned the responsibility of administering and enforcing by-laws passed under this section;<br>(d) "owner" includes the person for the time being managing or receiving the rent of the land or permises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and | In accordance with its previously stated position, the Association feels that all definitions should be included in Section 1. |

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| maintain the property in accordance with the standards for the maintenance and occupancy of property; |  |
| (e) "property" means a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, fences and erections thereon whether heretofore of hereafter erected, and includes vacant property; |  |
| (f) "repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established in a by-law passed under this section. |  |
| (2) Where there is no official plan in effect in a local municipality, the council of the municipality may, by by-law approved by the Minister, adopt a policy statement, containing provisions relating to property conditions. |  |
| (3) If, |  |
| (a) an official plan that includes provisions relating to property conditions is in effect in a local municipality; or |  |
| (b) the council of a local municipality has adopted a policy statement as mentioned in subsection (2), |  |

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the council of the municipality may pass a by-law,

(c) for prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform to the standards;

(d) for requiring property that does not conform to the standards to be repaired and maintained to conform to the standards or for the site to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition;

(e) for prohibiting the removal from any premises of any sign, notice or placard placed thereon pursuant to this section or a by-law passed under the authority of this section.

(4) When a by-law under this section is in effect, an officer and any person acting under his instructions may, at all reasonable times and upon producing proper identification, enter and inspect any property.

(5) An officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without the consent of the occupant except under the authority of a search warrant issued under section 142 of The Provincial Offences Act, 1979.

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(6) If, after inspection, the officer is satisfied that, in some respect, the property does not conform to the standards prescribed in the by-law he shall serve or cause to be served by personal services upon, or send by prepaid registered mail to the owner of the property and all persons shown by the records of the registry office, the land titles office and the sheriff's office, to have any interest therein a notice containing particulars of the non-conformity and may, at the same time, provide all occupants with a copy of such notice.

(7) After affording any person served with a notice provided for by subsection (6) an opportunity to appear before the officer and to make representations in connection therewith, the officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing,

(a) the municipal address or the legal description of such property;

(b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry out the repair or clearance at the expense of the owner; and

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(c) the final date for giving notice of appeal from the order.

(8) A notice or an order under subsection (6) or (7), when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

(9) If the officer is unable to effect service under subsection (6) or (7), he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

(10) An order under subsection (7) may be registered in the proper registry or land titles office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the date on which the order was served under subsection (7) and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper registry or land titles office a certificate that such requirements have been satisfied, which shall operate as a discharge of such order.

(11) Every by-law passed under this section shall provide for the establishment of a property standards committee composed of such persons, not fewer than three, as the council considers advisable and who shall hold office for such term and on such conditions as may be prescribed in the by-law,

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and the council of the municipality, when a vacancy occurs in the membership of the committee, shall forthwith fill the vacancy.

(12) The members of the committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise, the committee may appoint another member as acting chairman and shall make provision for a secretary for the committee, and any member of the committee may administer oaths.

(13) The members of the committee shall be paid such compensation as the council may provide.

(14) The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 216 of The Municipal Act applies with the necessary modifications to such documents.

(15) A majority of the committee constitutes a quorum, and the committee may adopt its own rules of procedure but before hearing an appeal under subsection (17) shall give notice or direct that notice be given of such hearing to such persons as the committee considers should receive such notice.

(16) When the owner or occupant upon whom an order has been served in accordance with this section is not satisfied with the terms or conditions of the order, he may appeal to the committee by sending notice of appeal by registered mail to the secretary of the committee within fourteen days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed.

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(17) Where an appeal has been taken, the committee shall hear the appeal and shall have all the powers and functions of the officer and may confirm the order to demolish or repair or may modify or quash it or may extend the time for complying with the order provided that, in the opinion of the committee, the general intent and purpose of the by-law and of the official plan or policy statement are maintained.

(18) The municipality in which the property is situated or any owner or occupant or person affected by a decision under subsection (17) may appeal to a judge of the county or district court of the judicial district in which the property is located by so notifying the clerk of the corporation in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision, and,

(a) the judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in his appointment may direct that it shall be served upon such persons and in such manner as he prescribes;

(b) the appointment shall be served in the manner prescribed; and

(c) the judge on such appeal has the same powers and functions as the committee.

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| (19) The order, as deemed to have been confirmed pursuant to subsection (16), or as confirmed or modified by the committee pursuant to subsection (17), or in the event of an appeal to the judge pursuant to subsection (18), as confirmed or modified by the judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order. | |
| (20) If the owner or occupant of property fails to demolish the property or to repair in accordance with an order as confirmed or modified, the corporation in addition to all other remedies,<br>(a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property; and<br>(b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the corporation under the provision of this subsection. | |
| (21) Following the inspection of a property, the officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his opinion, the property is in compliance with the standards of a by-law passed under subsection (3), and the council or a municipality may prescribe a fee payable for such a certificate, where it is issued at the request of the owner. | |

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(22) An owner who fails to comply with an order that is final and binding under this section is guilty of an offence and on conviction is liable to a fine of not more that $500 for each day that the contravention has continued.

**32.** (1) When a by-law under section 32 is in force in a municipality, the council of the municipality may pass a by-law for providing for the making of grants or loans to the registered owners or assessed owners of lands in respect of which a notice has been sent under subsection 31 (6) to pay for the whole or any part of the cost of the repairs required to be done, or of the clearing, grading and levelling of the lands, on such terms and conditions as the council may prescribe.

(2) The amount of any loan made under a by-law passed under this section, together with interest at a rate to be determined by the council, may be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes over a period fixed by the council, and such amount and interest shall, until payment thereof, be a lien or charge upon the land in respect of which the loan has been made.

(3) A certificate signed by the clerk of the municipality setting out the amount loaned to any owner under a by-law passed under this section, including the rate of interest thereon, together with a description of the land in respect of which

The phrase "in like manner as municipal taxes" has caused problems in the past, in the collection process, for municipalities. Therefore, the Association suggests that the words "added by the clerk...in like manner as municipal taxes" be deleted and replaced by the words "deemed to be taxes due upon the land under Section 369 of the Municipal Act and may be collected in the same manner as municipal taxes". This wording would appear to be consistent with that used in subsection 39(4) of Bill 159.

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| the loan has been made, sufficient for registration, shall be registered in the proper registry or land titles office against the land, and, upon repayment in full to the municipality of the amount loaned and interest thereon, a certificate signed by the clerk of the municipality showing such repayment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the loan was made is discharged. | |
| 33. (1) In this section, | |
| (a) "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals; | AMO suggests that the words "designed for use" in the definition of "dwelling unit" be deleted and replaced by the words "may be used". |
| (b) "residential property" means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings the use of which is incidental to the use of the main building. | In accordance with the Association's previously stated position, it suggests that all definitions be included in Section 1. |
| (2) When a by-law under section 31 or a predecessor thereof is in force in a municipality or when a by-law prescribing standards for the maintenance and occupancy of property under any special Act is in force in a municipality, the council of the local municipality may by by-law designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control and thereafter no person shall demolish the whole or any part of any residential property in the area of demolition control unless he is the holder of a demolition permit issued by the council under this section. | |

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| (3) Subject to subsection (6), where application is made to the council for a permit to demolish residential property, the council may issue the permit or refuse to issue the permit. | |
| (4) Where the council refuses to issue the permit or neglects to make a decision thereon within thirty days after the receipt by the clerk of the municipality of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued, and the decision of the Board shall be final. | |
| (5) The person appealing to the Municipal Board under subsection 4 shall, in such manner and to such persons as the Municipal Board may direct, give notice of the appeal to the Board. | The Association suggests that the word "the" before the word "person" and the words "subsection (4)" be deleted and replaced by the words "any" and "subsections (4) and (9)" respectively. |
| (6) Subject to subsection (7), the council shall on application therefor, issue a demolition permit where a building permit has been issued to erect a new building on the site of the residential property sought to be demolished. | |
| (7) A demolition permit under subsection (6) may be issued on the condition that the applicant for the permit construct and substantially complete the new building to be erected on the site of the residential property proposed to be demolished by not later than such date as the permit specifies, such date being not less than two years from the day demolition of the existing residential property | |

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is commenced, and on the condition that on failure to complete the new building within the time specified in the permit, the clerk of the municipality shall be entitled to enter on the collector's roll, to be collected in like manner as municipal taxes, such sum of money as the permit specifies, but not in any case to exceed the sum of $20,000 for each dwelling unit contained in the residential property in respect of which the demolition permit is issued and such sum shall, until payment thereof, be a lien or charge upon the land in respect of which the permit to demolish the residential property is issued.

(8) Where the clerk of the municipality adds a sum of money to the collector's roll under subsection (7), a certificate signed by the clerk setting out the amount of the sum added to the roll, together with a description of the land in respect of which the sum has been added to the roll, sufficient for registration, shall be registered in the proper land registry office against the land, and upon payment in full to the municipality of the sum added to the roll, a certificate signed by the clerk of the municipality showing such payment shall be similarly registered, and thereupon the lien or charge upon the land in respect of which the sum was added to the role is discharged.

(9) Where an applicant for a demolition permit under subsection (6) is not satisfied as to the conditions on which the demolition permit is proposed to be issued, he may appeal to the Municipal Board for a variation of the conditions and, where an appeal is brought, the Board shall

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hear the appeal and may dismiss the same or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate, and the decision of the Board shall be final.

(10) Where any person who has obtained a demolition permit under subsection (6) that is subject to conditions under subsection (7) considers that it is not possible to complete the new building within the time specified in the permit or where he is of the opinion that the construction of the new building has become not feasible on economic or other grounds, he may apply to the council of the municipality for relief from the conditions on which the permit was issued, by sending notice of application by registered mail to the clerk of the municipality not less than sixty days before the time specified in the permit for the completion of the new building and where the council under subsection (11) extends the time for completion of the new building, application may similarly be made for relief by sending notice of application not less than sixty days before the expiry of the extended completion time.

(11) Where an application is made under subsection (10), the council shall consider the application and may grant the same or may extend the time for completion of the new building for such period of time and on such terms and conditions as the council considers appropriate or the council may relieve the person applying from the requirement of constructing the new building.

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| (12) Any person who has made application to the council under subsection (10), may appeal from the decision of the council to the Municipal Board within twenty days of the mailing of the notice of the decision, or where the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Board and the Municipal Board shall hear the appeal and the Board on the appeal has the same powers as the council has under subsection (11) and the decision of the Board shall be final. | |
| (13) Every person who demolishes a residential property, or any portion thereof, in contravention of subsection (2) is guilty of an offence and on conviction is liable to a fine of not more than $20,000 for each dwelling unit contained in the residential property the whole or any portion of which residential property has been demolished or to imprisonment for a term of not more than six months, or to both. | |
| (14) The provisions of any general or special Act and any by-law passed thereunder respecting standards relating to the health or safety of the occupants of buildings and structures remain in full force and effect in respect of residential property situated within an area of demolition control. | |

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| (15) Subject to subsection (14), an application to the council for a permit to demolish any residential property operates as a stay to any proceedings that may have been initiated under any by-law under section 31 or a predecessor thereof or under any special Act respecting maintenance or occupancy standards in respect of the residential property sought to be demolished, until the council disposes of the application, or where an appeal is taken under subsection (4), until the Municipal Board has heard the appeal and issued its order thereon. | AMO believes that there is no provision within Section 33 that would prohibit owners of occupied buildings from subverting work orders. If an owner had a work order imposed upon his building, there is nothing to prevent him from applying for a demolition permit as a stalling procedure to avoid undertaking necessary repairs. The delaying tactic could result in hardships for the occupants of such buildings. This Section should therefore prohibit owners of occupied buildings from applying for demolition permits unless the intent is to demolish. This could be achieved by specifying a time period in which demolition must take place. |
| (16) Where a permit to demolish residential property is obtained under this section, it is not necessary for the holder thereof to obtain the permit mentioned in section 5 of The Building Code Act. | |
| **PART V LAND USE CONTROLS AND RELATED ADMINISTRATION** | |
| **34.** (1) Zoning by-laws may be passed by the councils of local municipalities:<br>1. For prohibiting the use of land, for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway. | |

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| 2. For prohibiting the erection, locating or use of buildings or structures for or except for such purposes as may be set out in the by-law within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway. | |
| 3. For prohibiting the erection of any class or classes of buildings or structures on land that is subject to flooding or on land where, by reason of its steep slopes, rocky, low-lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive. | The Association considers it is unreasonable to tie the prohibition of development on those types of land referred to in this subsection solely to the cost of constructing services.<br>The municipality may wish to prohibit development in a particular area for reasons unrelated to servicing costs. This clause would appear to restrict the municipality in this ability to do this.<br>AMO suggests that the words "the cost of construction...is prohibitive" be deleted. |
| 4. For regulating the type of construction and the height, bulk, location, size, floor area, spacing, character and use of buildings or structures to be erected or located within the municipality or within any defined area or areas or upon land abutting on any defined highway or part of a highway and the minimum frontage and depth of the parcel of land and the proportion of the area thereof that any building or structure may occupy. | The words "exterior design" should be added to this subsection after the word "character".<br>The words "and/or maximum" should be added to this subsection after the word "minimum". |
| 5. For regulating the minimum elevation of doors, windows or other openings in buildings or structures or in any class or classes of buildings or structures to be erected or located | |

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| within the municipality or within any defined area or areas of the municipality. | |
| 6. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law to provide and maintain loading or parking facilities on land that is not part of a highway. | |
| 7. For prohibiting the making or establishment of pits and quarries within the municipality or within any defined area or areas thereof. | For the purpose of this Act, the terms "pit" and "quarry" should be defined as a use of land. |
| (2) The authority to regulate provided in paragraph 4 of subsection (1) includes and, notwithstanding the decision of any court, shall be deemed always to have included the authority to regulate the minimum area of the parcel of land mentioned therein and to regulate the density of development in the municipality or in the area or areas defined in the by-law. | In accordance with the Association's comment on subsection 34(1)(4), the word "minimum" should be deleted from in front of the word "area". |
| (3) A trailer as defined in clause a of paragraph 95 of section 210 of The Municipal Act and a mobile home as defined in clause 46 (1) (a) of this Act shall be deemed to be a building or structure for the purposes of this section. | In accordance with the previously stated position of the Association, the definition of trailer should be included in Section 1. |
| (4) A by-law heretofore or hereafter passed under paragraph 1 or 2 of subsection (1) or a predecessor of such paragraph may prohibit the use of land or the erection or use of buildings or structures unless such municipal services as may be set out in the by-law are available to service the land, buildings or structures, as the case may be. | |

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(5) A by-law passed under this section may provide for the issue of certificates of occupancy without which no change may be made in the type of use of any land covered by the by-law or of any building or structure on any such land, but no such certificate shall be refused if the proposed use is not prohibited by the by-law.

(6) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law and the information shown on such maps shall form part of the by-law to the same extent as if included therein.

(7) The council may acquire any land, building or structure used or erected for a purpose that does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situated, and the council may dispose of any of such land, building or structure or may exchange any of such land for other land within the municipality.

(8) No by-law passed under this section applies,

(*a*) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose; or

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| (b) to prevent the erection or use for a purpose prohibited by the by-law of any building or structure for which a permit has been issued under section 5 of The Building Code Act, prior to the day of the passing of the by-law, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under section 6 of The Building Code Act. | |
| (9) Notwithstanding any other provision of this section, any by-law passed under this section or a predecessor of this section may be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed. | |
| (10) Where an application to the council for an amendment to a by-law passed under this section or a predecessor of this section is refused or the council refuses or neglects to make a decision thereon within thirty days after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order. | Subsections 34(10) and 34(11) create a situation similar to that described in relation to subsections 22(1) and 21(1). That is, council is required to make a decision within 30 days of receiving an application for an amendment to a zoning by-law but before doing so, a public meeting must be held to which notice must be given at least 30 days in advance. |

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| (11) Before passing a by-law under this section, except a by-law passed pursuant to an order of the Municipal Board made under subsection (10), the council,<br>(a) shall, in the manner and to the persons and containing the information prescribed, give notice of the time when and the place where council will hold a meeting to consider the passing of a by-law, which meeting shall be held not sooner than thirty days after the requirements for the giving of the notice have been complied with; and<br>(b) shall, in the manner and to the agencies and containing the information prescribed, give notice that council is considering passing a by-law. | AMO recommends that the "thirty" day period referred to in subsection 34(10) be changed to "ninety". Also the applicant should be required to make applications to the OMB within 30 days of the council decision or within 30 days from the end of the 90 day period referred to above if the council refuses to take any action.<br>The Association recommends, for reasons indicated in its response to Section 17, that amendments similar to those suggested for Section 17, related to the amending of bylaws and conducting of public meetings, be incorporated into Section 34. |
| (12) The meeting mentioned in clause (11) a shall be open to the public and the council shall afford any person who attends the meeting an opportunity to be heard in respect of the passing of the by-law. | |
| (13) An agency may, within thirty days of the giving of the notice mentioned in clause (11) b or within such further period of time as the council may subsequently allow, submit comments to the council in respect of the passing of the bylaw. | The Association suggests that the word "written" be added before the word "comments". |
| (14) Where the council passes the by-law, the clerk of the municipality shall compile a record which shall include, | |

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| (a) a copy of the by-law certified by him; | |
| (b) an affidavit or declaration duly sworn certifying that the requirements for the giving of notice as mentioned in subsections (11) and (15) have been complied with. | |
| (c) the original or a true copy of all written submissions and material in support of the submissions received prior to the passing of the by-law and of all comments received from agencies under subsection (13); and | The Association suggests that the word "written" be added before the word "comments". |
| (d) where no notice of appeal to the Municipal Board is filed under subsection (16), an affidavit or declaration duly sworn certifying such fact. | |
| (15) Where the council passes the by-law, the clerk of the municipality shall, not later than ten days after the day the by-law was passed, give written notice of the passing of the by-law to the Minister, to every person who filed with the clerk a written request at the meeting mentioned in clause (11) a or at anytime prior thereto to be notified if the by-law is passed and to every agency that submitted comments under subsection (13) and that in writing requested to be notified if the by-law is passed. | Similar to the Association's comments on subsection 17(7), the clerk should be given adequate time to forward the notice required by this subsection so as not to jeopardize the legality of a by-law. Therefore, the Association suggests that the "ten" day period referred to in subsection 34(15) be changed to "fifteen". Also, the word "written" should be added before the word "comments". |
| (16) Any person, including the Minister, or agency may, within thirty days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. | |

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| (17) When no notice of appeal is filed under subsection (16) the by-law shall be deemed to have come into force on the day it was passed except that where the by-law is passed under circumstances mentioned in subsection 24 (2) the by-law shall not be deemed to have come into force on the day it was passed until the Minister has approved the amendment to the official plan as mentioned in subsection 24 (2). | |
| (18) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsections (11) and (15) or that no notice of appeal was filed under subsection (16) within the time allowed for appeal shall be conclusive evidence of the facts stated therein. | |
| (19) The clerk of the municipality, upon receipt of a notice of appeal under subsection (16), shall forward the notice of appeal together with the record mentioned in subsection (14) to the secretary of the Municipal Board and shall provide such other information or material as the Board may require in respect of the appeal. | |
| (20) The parties to an appeal are the appellant, the municipality and any person or agency added as a party by the Municipal Board. | |
| (21) The Municipal Board may add as a party to the appeal any person, including the Minister, or agency who applies to the Board to be added as a party. | |
| (22) Despite the fact that a person is not a party to the appeal, the Municipal Board may permit the person to make representations at the hearing. | |

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| (23) On an appeal to the Municipal Board, the Municipal Board shall hold a hearing of which notice shall be given to the parties to the appeal, and to such other persons as the Board considers appropriate. | |
| (24) Despite subsection (23), the Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a hearing, and where the Board does so it shall give written reasons therefor to the appellant and send a copy to all other parties to the appeal. | |
| (25) The Municipal Board may, on the basis of the contents of the notice of appeal, the record that accompanied the notice and such other matters as the Board considers proper to take into account, establish the issues that are in dispute in an appeal and where the Board does so a party to the appeal may not, except with the leave of the Board, introduce at the hearing any evidence or present any argument that is not relevant to the issues in dispute as established by the Board. | |
| (26) The Municipal Board may,<br>(a) dismiss the appeal; or<br>(b) allow the appeal in whole or in part and direct the council of the municipality to repeal the by-law or to amend the by-law in accordance with the Board's order. | Subsections 34(26), (27) and (29) refer to an order of the Board as does subsection 22(4), while Section 17(17) refers to a decision made by the Board and subsection 34(31) refers to a direction of the Board. The Association suggests, that for clarity, the same terminology be used throughout the Act when referring to the actions of the Board. |

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| (27) Subsections (11) to (25) do not apply to a by-law passed pursuant to an order of the Municipal Board made under subsection (10) or (26). | |
| (28) Where an appeal has been filed under subsection (16), the Minister, if he is of the opinion that a matter of provincial interest is or is likely to be adversely affected by the by-law may so advise the Municipal Board in writing not later than ten days before the day fixed by the Board for the hearing of the appeal and the Minister shall identify the part or parts of the by-law by which the provincial interest is, or is likely to be adversely affected. | In accordance with the previously stated comments of the Association, the Minister should be required to follow the same appeal procedures as any other party and advise the OMB in writing at the time of such referral as to the part(s) of the by-law which are expected to adversely affect provincial interests and why. |
| (29) Where the Municipal Board receives notice from the Minister under subsection 28, the Board shall not make an order under subsection 26 in respect of the part of parts of the by-law identified in the notice but shall, following the hearing of the appeal, make a report to the Lieutenant Governor in Council setting out its findings and recommendations in respect of such part or parts and shall send a copy of the report to the Minister, to each party to the appeal and to any person who, in writing, requests a copy of the report. | |
| (30) After considering the report of the Board, the Lieutenant Governor in Council shall make a final disposition of the part of parts of the by-law and, in doing so, may direct the council of the municipality to repeal or amend the by-law and subsections (10) to (25) do not apply to a by-law passed pursuant to any such direction of the Lieutenant Governor in Council. | |

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| (31) Where one or more appeals have been filed under subsection (16), the by-law does not come into force until all of such appeals have been finally disposed of whereupon the by-law shall be deemed to have come into force on the day it was passed except for such parts thereof as are repealed or amended in accordance with the direction of the Municipal Board or of the Lieutenant Governor in Council as mentioned in subsections (26) and (30). | Section 31 does not permit any part or parts of a bylaw to come into force if appeals are filed against any other part or parts of the bylaw. The Association recommends that this section be amended to permit the bylaw to come into force on the day that it is passed save and except for those parts which are appealed. |
| 35. (1) The Council of a local municipality may, in a by-law passed under section 34, by the use of the holding prefix "H" preceding any use designation, specify the use to which lands, buildings or structures may be put at such time in the future as the holding prefix "H" is removed by amendment to the by-law. | |
| (2) A by-law shall not contain the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the use of the holding prefix "H" mentioned in subsection (1). | |
| (3) Where an application to the council for an amendment to the by-law to remove the holding prefix "H" is refused or the council refuses or neglects to make a decision thereon within thirty days after receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order. | |

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(4) Subsections 34 (10) to (25) do not apply to an amending by-law passed by the council to remove the holding prefix "H", see page 33, Bill 159.

36. (1) The council of a local municipality may, in a by-law passed under section 34, authorize increases in the height and density of development otherwise permitted by the by-law that will be permitted in return for the provision of such facilities, services or matters as are set out in the by-law.

(2) A by-law may not be passed containing the provisions mentioned in subsection (1) unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development.

(3) Where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters.

(4) Any agreement entered into under subsection (3) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land.

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| **37.** (1) Where the council of a local municipality has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality or in any defined area or areas thereof, the council of the municipality may pass a by-law (hereinafter referred to as an interim control by-law) to be in effect for a period of time specified in the by-law, which period shall not exceed one year from the date of the passing thereof, prohibiting the use of land, buildings or structures within the municipality or within the defined area or areas thereof for, or except for, such purposes as are set out in the by-law. | The Association recommends that the municipality be required to have an official plan containing policies relating to the use of interim control bylaws as mentioned in Section 37 before such a bylaw could be passed by council. |
| (2) The council of the municipality may amend an interim control by-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed two years from the date of the passing of the interim control by-law. | |
| (3) No notice or hearing is required prior to the passing of a by-law under subsection (1) or (2) but the clerk of the municipality shall, in the manner and to the person and agencies and containing the information prescribed, give notice of a by-law passed under subsection (1) or (2) within thirty days of the passing thereof. | |
| (4) Any person or agency to whom notice of by-law was given under subsection (3), may within sixty days from the date of the passing of the by-law, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. | Where a notice of appeal is filed against an interim control bylaw the bylaw should remain in effect, from the day of OMB approval, for the length of time specified in the bylaw. |

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| (5) Where a notice of appeal is filed under subsection (4), the clerk of the municipality shall compile a record which shall consist of a copy of the by-law certified by him and an affidavit or declaration duly sworn certifying that the requirements for the giving of notice as mentioned in subsection (3) have been compiled with and thereafter the provisions of subsections 34 (19) to (30) apply with the necessary modifications. | |
| (6) Where the period of time during which an interim control by-law is in effect has expired and the council has not passed a by-law under section 34 consequent on the completion of the review or study within the period of time specified in the interim control by-law, or where an interim control by-law is repealed or the extent of the area covered thereby is reduced the provisions of any by-law passed under section 34 that applied immediately prior to the coming into force of the interim control by-law again come into force and have effect in respect of all lands, buildings or structures formerly subject to the interim control by-law. | |
| (7) Where an interim control by-law ceases to be in effect, the council of the municipality may not for a period of three years pass a further interim control by-law that applies to any lands to which the original interim control by-law applied. | |
| (8) The provisions of subsection 34 (8) apply with the necessary modifications to a by-law passed under subsection (1) or (2). | |

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| **38.** (1) The council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law. | The Association recommends that a subsection be added to Section 38 which would require the municipality to have an official plan containing policies relating to the temporary use of land, buildings or structures as mentioned in subsection 38(1) before it could pass such a by-law. |
| (2) A by-law authorizing a temporary use under subsection (1) shall define the area to which it applies and prescribe the period of time for which the authorization shall be in effect, which shall not exceed three years from the day of the passing of the by-law. | |
| (3) Despite subsection (2), the council may grant further periods of not more than three years each during which the temporary use is authorized. | It is not clear as to whether further terms are merely granted by council or whether any extension requires the passing of a new by-law under Section 34. |
| (4) Upon the expiry of the period or periods of time mentioned in subsections (2) and (3) clause 34(8)(a) does not apply so as to permit the continued use of the land, buildings or structures for the purpose temporarily authorized. | AMD suggests that the words "and (b)" be added after "(a)" in this subsection. |
| **39.** (1) Where an owner or occupant of a building is required under a by-law of a local municipality to provide and maintain parking facilities on land that is not part of a highway, the council of the municipality and such owner or occupant may enter into an agreement exempting the owner or occupant, to the extent specified in the agreement, from the requirement of providing or maintaining the parking facilities. | |

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| (2) An agreement entered into under subsection (1) shall provide for the making of one or more payments of money to the municipality as consideration for the granting of the exemption and shall set forth the basis upon which such payment is calculated. | |
| (3) All monies received by a municipality under an agreement entered into under this section shall be paid into a special account, and the monies in such special account shall be applied for the same purposes as a reserve fund established under paragraph 55 of section 208 of The Municipal Act may be applied, and the monies in such special account may be invested in such securities as a trustee may invest in under The Trustee Act, and the earnings derived from the investment of such monies shall be paid into such special account, and the auditor of the municipality in his annual report shall report on the activities and position of the account. | |
| (4) An agreement entered into under this section may be registered in the proper land registry office against the land to which it applies, and when so registered, any monies payable to the municipality under the agreement that have become due for payment shall be deemed to be taxes due upon the land under section 369 of The Municipal Act and may be collected in the same manner as municipal taxes. | |
| (5) When all monies payable to the municipality under an agreement registered under subsection (4) have been paid, or such agreement has been terminated, the clerk of the municipality shall, at the request of the owner of the land, provide a | |

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| certificate in a form registerable in the proper land registry office, certifying that the monies have been paid or that the agreement has been terminated. | |
| **40.** (1) By-laws may be passed by the councils of local municipalities for prohibiting or regulating signs and other advertising devices or any class or classes thereof and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway and any by-law passed under this subsection may provide that a sign or other advertising device that was lawfully erected or displayed on the day the by-law comes into force but that does not comply with the by-law, shall be,<br>(a) made to comply with the by-law; or<br>(b) removed by the owner thereof or by the owner of the land on which it is situated,<br>within such period of time as is specified in the by-law, which period shall be not less than five years from the day the by-law comes into force.<br>(2) A by-law passed under subsection (1) may specify a time period during which signs or other advertising devices in a defined class that are erected or located after the passing of the by-law may stand or be displayed in the municipality and may require the removal of such signs or other advertising devices which continue to stand or be displayed after such time period has expired. | The Association recommends that legally erected signs be given a period of not less than "fifteen" years to comply with a municipal sign bylaw as opposed to the five year minimum perod provided in Bill 159.<br>Also, the Association recommends that any sign bylaws passed by a municipal council under the provisions of the Municipal Act, which include a period for compliance of less than fifteen years, remain in force unless amended by council. |

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| (3) A by-law passed under subsection (1) may require the production of the plans of all signs or other advertising devices to be erected, displayed, altered or repaired and provide for the charging of fees for the inspection and approval of such plans and for the fixing of the amount of such fees and for the issuing of a permit certifying to such approval and may prohibit the erection, display, alteration or repair of any sign or advertising device where a permit has not been obtained therefor and may authorize the refusal of a permit for any sign or other advertising device that if erected or displayed would be contrary to the provisions of any by-law of the municipality. | |
| (4) A change in the message displayed by a sign or other advertising device does not in itself constitute an alteration so as to require a permit. | |
| (5) A by-law passed under subsection (1) may authorize the pulling down or removal at the expense of the owner of any sign or other advertising device that is erected or displayed in contravention of the by-law and may require any person who,<br>(a) has caused a sign or other advertising device to be erected, displayed, altered or repaired without first having obtained a permit to do so; or<br>(b) having obtained a permit has caused a sign or other advertising device to be erected, displayed, altered or repaired contrary to the approved plans in respect of which the permit was issued, | |

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| to make such sign or other advertising device comply with the by-laws of the municipality if it does not so comply or to remove such sign or other advertising device within such period of time as the by-law specifies. | |
| **41.** (1) In this section, "development" means the construction, erection or placing of one or more buildings or structures on land or the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof, or the laying out and establishment of a commercial parking lot or of sites for the location of three or more trailers as defined in clause a of paragraph 95 of section 210 of The Municipal Act or of sites for the location of three or more mobile homes as defined in clause 46(1)(a) of this Act. | In accordance with the Association's previously stated position, the definition of development should be placed in Section 1. |
| (2) Where there is an official plan in effect in a local municipality, the council of the municipality may, by by-law, designate the whole or any part of the area covered by the official plan as a site plan control area, but nothing herein authorizes the council to designate an area that is not within the limits of the municipality of which it is the council. | |
| (3) A by-law passed under subsection (2) may designate a site plan control area by reference to one or more land use designations contained in a by-law passed under section 34. | |

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| (4) No person shall undertake any development in an area designated under subsection (2) unless the council of the municipality or, where a referral has been made under subsection (10), the Municipal Board has approved one or both, as the council may determine, of the following: | |
| 1. Plans showing the location of all buildings and structures to be erected and showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under clause (7)(a). | |
| 2. Drawings showing plan, elevation and cross-section views for each building to be erected except a building to be used for residential purposes containing less than twenty-five dwelling units, which drawings are sufficient to display, | |
| (a) the massing and conceptual design of the proposed building; | |
| (b) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access; and | |
| (c) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings, | |

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but which exclude the layout of interior areas, other than the interior walkways, stairs and escalators referred to in clause c the colour, texture and type of materials, window detail, construction details, architectural detail and interior design.

(5) Despite the exception provided in paragraph 2 of subsection (4), the council of the municipality may require the drawings mentioned therein for a building to be used for residential purposes containing less than twenty-five dwelling units if the proposed building is to be located in an area specifically designated in the official plan mentioned in subsection (2) as an area wherein such drawings may be required.

(6) Nothing in this section shall be deemed to confer on the council of the municipality power to limit the height or density of buildings to be erected on the land.

(7) As a condition to the approval of the plans and drawings referred to in subsection (4), a municipality may require the owner of the land to,

(a) provide to the satisfaction of and at no expense to the municipality any or all of the following:

1. Widenings of highways that abut on the land.

2. Subject to The Public Transportation and Highway Improvement Act, facilities to provide access to and from the land such as access ramps and curbings and traffice direction signs.

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| 3. Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency vehicles, and the surfacing of such areas and driveways. | |
| 4. Walkways and walkway ramps including the surfacing thereof, and all other means of pedestrian access. | |
| 5. Facilities for the lighting, including floodlighting, of the land or of any building structures thereon. | |
| 6. Walls, fences, hedges, trees, shrubs or other groundcover or facilities for the landscaping of the lands or the protection of adjoining lands. | |
| 7. Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material. | |
| 8. Easements conveyed to the municipality for the construction, maintenance or improvement of watercourses, ditches, land drainage works, sanitary sewage facilities and other public utilities of the municipality or local board thereof on the land. | |
| 9. Grading or alteration in elevation or contour of the land and provision for the disposal of storm, surface and waste water from the land and from any buildings or structures thereon; | |

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(b) maintain to the satisfaction of the municipality and at the sole risk and expense of the owner any or all of the facilities or works mentioned in paragraphs 2, 3, 4, 5, 6, 7, 8 and 9 of clause (a), including the removal of snow from access ramps and driveways, parking and loading areas and walkways;

(c) enter into one or more agreements with the municipality dealing with and ensuring the provision of, and or all of the facilities, works or matters mentioned in clause (a) and the maintenance thereof as mentioned in clause (b) or with the provision and approval of the plans and drawings referred to in subsection (4).

(8) Any agreement entered into under clause (7)(c) may be registered against the land to which it applies and the municipality is entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land.

(9) Section 325 of The Municipal Act applies to any requirements made under clauses (7)(a) and (b) and to any requirements made under an agreement entered into under clause (7)(c).

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| (10) Where the municipality fails to approve the plans or drawings referred to in subsection (4) within thirty days after they are submitted to the municipality for approval or where the owner of the land is not satisfied with any of the requirements made by the municipality under subsection (7) or with any part thereof, including the terms of any agreement required, the owner of the land may require the plans or drawings or the unsatisfactory requirements or parts thereof or the agreement, as the case may be, to be referred to the Municipal Board by written notice to the secretary of the Board and to the clerk of the municipality, and the Board shall then hear and determine the matter in issue and settle and determine the details of the plans or drawings and approve the same and settle and determine the requirements, including the provisions of any agreement required, and the decision of the Board is final. | The Association recommends that the thirty day approval period provided for in subsection 41(10) be changed to ninety days. |
| (11) Where the council of a municipality has designated a site plan control area under this section the council may, by by-law,<br>(a) define any class or classes of development that may be undertaken without the approval of plans and drawings otherwise required under subsections (4) or (5); and<br>(b) delegate to either a committee of the council or to an appointed officer of the municipality identified in the by-law either by name or position occupied, any of the council's powers | |

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| or authority under this section, except the authority to define any class or classes of development as mentioned in clause (a). | |
| (12) Section 35a of The Planning Act, as it existed on the 21st day of June, 1979, shall be deemed to continue in force in respect of any by-law passed under that section on or before that day. | |
| (13) Every agreement entered into by a municipality after the 16th day of December, 1973 and before the 22nd day of June, 1979, to the extent that the agreement deals with facilities and matters mentioned in subsection 35a(2) of The Planning Act as it existed on the 21st day of June, 1979, is hereby declared to be valid and binding. | |
| **42.** (1) As a condition of development or redevelopment of land, the council of a local municipality may, by by-law applicable to the whole municipality or to any defined area or areas thereof, require that land in an amount not exceeding, in the case of land proposed for development or redevelopment for commercial or industrial purposes, 2 per cent and in all other cases, 5 per cent of the land conveyed to the municipality for park or other public recreational purposes. | The Association is concerned that, by stipulating in the legislation a maximum percentage of parkland which may be required from a developer, individual municipalities would not have the flexibility to address their individual parkland needs. The Association recommends that municipalities be allowed to determine their own parkland dedication standards and that these be established in their official plan. In situations where the municipality has not adopted an official plan as of yet, the legislation should permit the municipality to require a maximum of five percent parkland. |

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| (2) For the purposes of subsection (3), "dwelling unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals. | As previously suggested the words "designed for use" should be deleted and replaced by the words "may be used" and all definitions should be included in Section 1. |
| (3) Subject to subsection (4), as an alternative to requiring the conveyance provided for in subsection (1), in the case of land proposed for development or redevelopment for residential purposes, the by-law may require that land be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be specified in the by-law. | In accordance with the Association's position as expressed above in connection with subsection 42(1), subsections 42(3) and 42(4) should be deleted. |
| (4) The alternative requirement authorized by subsection (3) may not be provided for in a by-law passed under this section unless the municipality has an official plan that contains specific policies dealing with the provision of lands for park or other public recreational purposes and the use of the alternative requirement. | |
| (5) Land conveyed to a municipality under this section shall be used for park or other public recreational purposes, but may be sold at any time. | The wording of this subsection appears to require that the land must be used for park or other recreational purposes after being sold by the municipality. This would severely limit the ability of the municipality to sell or exchange land in one area of the municipality as a means of acquiring or obtaining an equal amount of land in another location. This practice may be necessary to allow the municipality to use its available resources most effectively or to satisfy an identified need elsewhere in the community. |

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|  | Therefore the land referred to in this subsection, after being sold, should be able to be used for any purpose which does not contravene the official plan or zoning bylaw of the municipality. |
| (6) The council of a municipality may require the payment of money to the value of the land otherwise required to be conveyed under this section in lieu of such conveyance and for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the issuance of the building permit in respect of the development or where more than one building permit is required for the development, as of the day before the day of the issuance of the first permit and where the owner and the municipality are unable to agree on the value, either party may apply to the Land Compensation Board to have the value determined and the Board shall, in accordance as nearby as may be with the provisions of The Expropriation Act, determine the value of the land. | The Association recommends that subsection 42(6) be amended by deleting the words "and for the purpose of determining the amount... of the issuance of the first permit". |
| (7) The provisions of subsection 51 (12) apply with the necessary modifications to all monies received under subsection (6) and to all monies received from the sale of lands under subsection (5). |  |
| (8) Where land has been conveyed to a municipality for park or other public purposes or a payment of money in lieu of such conveyance has been received by the municipality pursuant to a condition imposed under this section or under section 51 or section 53 or under a predecessor of any |  |

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of such sections, the conveyance or payment, as the case may be, shall be included in determining the amount of land or payment of money in lieu thereof that may subsequently be required under this section on the development, further development or redevelopment of the lands or part thereof in respect of which the original conveyance or payment was received.

(9) In the event of a dispute between a municipality and an owner of land as to the amount of land or payment of money in lieu thereof that may subsequently be required, as mentioned in subsection (8), either party may apply to the Municipal Board and the Board shall make a final determination in the matter.

**43.** (1) Subsections 34(11) to (31) do not apply to a by-law that amends a by-law only to express a word, term or measurement in the by-law in a unit of measurement set out in Schedule 1 of The Weights and Measures Act (Canada) in accordance with the definitions set out in Schedule II of that Act and that,

(a) does not round any measurement so expressed further than to the next higher or lower multiple of 0.5 metres or 0.5 square metres, as the case may be; or

(b) does not vary by more than 5 per cent any measurement so expressed.

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| (2) Any land, building or structure that otherwise conforms with a by-law passed under section 34 or a predecessor thereof or an order made by the Minister under section 47 or a predecessor thereof does not cease to conform with the by-law or order by reason only of an amendment to the by-law or order that conforms with subsection (1). | |
| **44.** (1) If a municipality has passed a by-law under section 34 or a predecessor of such section, the council of the municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three, as the council considers advisable. | |
| (2) Where a by-law is passed under subsection (1), a certified copy of the by-law shall be sent to the Minister by registered mail by the clerk of the municipality within thirty days of the passing thereof. | |
| (3) The members of the committee who are not members of a municipal council shall hold office for the term of the council that appointed them and the members of the committee who are members of a municipal council shall be appointed annually. | |
| (4) Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his term, the council shall appoint another eligible person for the unexpired portion of the term. | |

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| (5) Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum. | |
| (6) Subject to subsection (5), a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members. | |
| (7) The members of the committee shall elect one of themselves as chairman, and, when the chairman is absent through illness or otherwise, the committee may appoint another member as acting chairman. | |
| (8) The committee shall appoint a secretary-treasurer, who may be a member of the committee, and may engage such employees and consultants as is considered expedient, within the limits of the monies appropriated for the purpose. | |
| (9) The members of the committee shall be paid such compensation as the council may provide. | |
| (10) The secretary-treasurer shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the committee, and section 78 of The Municipal Act applies with the necessary modifications, to such documents. | |
| (11) In addition to complying with the requirements of this Act, the committee shall comply with such rules of procedure as are prescribed. | |

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**45.** (1) The committee of adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under section 34, 37 or 40 or a predecessor of such sections, or any person authorized in writing by the owner, may, notwithstanding any other Act, authorize such minor variance from the provisions of the by-law, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, provided that in the opinion of the committee the general intent and purpose of the by-law and of the official plan, if any, are maintained.

(2) In addition to its powers under subsection (1), the committee, upon any such application,

(a) where any land, building or structure, on the day the by-law was passed, was lawfully used for a purpose prohibited by the by-law, may permit,

(i) the enlargement or extension of the building or structure, provided that the use that was made of the building or structure on the day the by-law was passed, or a use permitted under subclause (ii) continued until the date of the application to the committee, but no permission may be given to enlarge or extend the building or structure beyond the limits of the land owned and used in connection therewith on the day the by-law was passed, or

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(ii) the use of such land, building or structure for a purpose that, in the opinion of the committee, is similar to the purpose for which it was used on the day the by-law was passed or is more compatible with the uses permitted by the by-law than the purpose for which it was used on the day the by-law was passed, provided that the use for a purpose prohibited by the by-law or another use for a purpose previously permitted by the committee continued until the date of the application to the committee; or

(b) where the uses of land, building or structures permitted in the by-law are defined in general terms, may permit the use of any land, building or structure for any purpose that, in the opinion of the committee, conforms with the uses permitted in the by-law.

(3) A council that has constituted a committee of adjustment may by by-law empower the committee of adjustment to grant minor variances from the provisions of any by-law of the municipality that implements an official plan, or from such by-laws of the municipality as are specified and that implement an official plan, and when a committee of adjustment is so empowered, the provisions of subsection (1) apply with the necessary modifications.

(4) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer.

(5) The committee, before hearing an application, shall in the manner and to the persons and agencies and containing the information prescribed, give notice of the application.

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| (6) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision. | |
| (7) The chairman, or in his absence the acting chairman, may administer oaths. | |
| (8) No decision of the committee on an application is valid unless it is concurred in by the majority of the members of the committee that heard the application, and the decision of the committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision. | |
| (9) Any authority or permission granted by the committee under subsections (1), (2) and (3) may be for such time and subject to such terms and conditions as the committee considers advisable and as are set out in the decision. | |
| (10) The secretary-treasurer shall not later than ten days from the making of the decision send by mail one copy of the decision, certified by him, | |
| (a) to the Minister if the Minister has notified the committee by registered mail that he wishes to receive a copy of all decisions of the committee; | |
| (b) to the applicant; and | |

(c) to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision,

together with a notice of the last day for appealing to the Municipal Board.

(11) Where the secretary-treasurer is required to send a copy of the decision to the Minister under subsection (10), he shall also send to the Minister such other information and material as may be prescribed.

(12) The applicant, the Minister or any other person who has an interest in the matter may within thirty days of the making of the decision appeal to the Municipal Board against the decision of the committee by serving personally on or sending by registered mail to the secretary-treasurer of the committee a notice of appeal setting out the objection to the decision and the reasons in support of the objection accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under The Ontario Municipal Board Act as payable on an appeal from a committee of adjustment to the Board.

(13) The secretary-treasurer of a committee, upon receipt of a notice of appeal served or sent to him under subsection (12) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (12) to the Municipal Board by registered mail together with all papers and documents filed with the committee of adjustment relating to the matter appealed from and such other documents and papers as may be required by the Municipal Board.

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(14) If within such thirty days no notice of appeal is given, the decision of the committee is final and binding, and the secretary-treasurer shall notify the applicant and shall file a certified copy of the decision with the clerk of the municipality.

(15) Where all appeals to the Municipal Board are withdrawn by the persons who gave notice of appeal, the decision of the committee is final and binding and the secretary of the Municipal Board shall notify the secretary-treasurer of the committee who, in turn, shall notify the applicant and file a certified copy of the decision with the clerk of the municipality.

(16) On an appeal to the Municipal Board, the Municipal Board shall, except as provided in subsections (15) and (17), hold a hearing of which notice shall be given to the applicant, the appellant, the secretary-treasurer of the committee and to such other persons and in such manner as the Municipal Board may determine.

(17) The Municipal Board may, where it is of the opinion that the objection to the decision set out in the notice of appeal is insufficient, dismiss the appeal without holding a hearing, and where the Board does so it shall give written reasons therefor to the appellant.

(18) The Municipal Board may dismiss the appeal and may make any decision that the committee could have made on the original application.

(19) When the Municipal Board makes an order on an appeal, the secretary of the Municipal Board shall send a copy thereof to the applicant, the appellant and the secretary-treasurer of the committee.

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| (20) The secretary-treasurer shall file a copy of the order of the Municipal Board with the clerk of the municipality. | |
| **46.** (1) In this section, | In accordance with the previously stated position of the Association all definitions should be included in Section 1. |
| (a) "mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed; | |
| (b) "parcel of land" means a lot or block within a registered plan of subdivision or any land that may be legally conveyed under the exemption provided in clause 50(3)(b) or clause 50(5)(a). | |
| (2) Unless otherwise authorized by a by-law in force under section 34 or an order of the Minister made under clause 47(1)(a), or a permit issued under section 13 of The Public Lands Act, no person shall erect or locate or use or cause to be erected, located or used, a mobile home except on a parcel of land as defined in clause 1(b) of this section, and in no case except as otherwise so authorized shall anyperson erect, locate or use or cause to be erected, located or used more than one mobile home on any such parcel of land. | |
| (3) This section does not apply to prevent the continued use in the same location of any mobile home that, | |

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| (a) was erected or located and in use prior to the 1st day of June, 1977; or<br>(b) was erected or located in accordance with a building permit issued prior to the 1st day of June, 1977. | |
| **47.** (1) The Minister may by order,<br>(a) in respect of any land in Ontario, exercise any of the powers conferred upon councils by section 34, but subsections (11) to (31) of that section do not apply to the exercise of such powers; and<br>(b) in respect of any land in Ontario, exercise the powers conferred upon councils by subsection 50(4).<br>(2) Where an order has been made under clause (1)(a) the Minister, in respect of the lands affected by the order, has all the powers in respect of such order as a committee of adjustment has under subsections 45(1) and (2) in respect of a by-law passed under section 34, but the provisions of subsections 45(4) to (8) and (10) to (20) do not apply to the exercise by the Minister of such powers.<br>(3) In the event of a conflict between an order made under clause (1)(a) and a by-law that is in effect under section 34 or 37, or a predecessor thereof, the order prevails to the extent of such conflict, but in all other respects the by-law remains in full force and effect. | With respect to an order made by the Minister under subsection 47(1)(a) the Association recommends that any such order be required to conform with the official plan if there is such in effect, as is presently required by Section 35(4) of The Planning Act, R.S.O. 1980. |

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(4) Where the Minister so provides in the order, an order made under clause (1)(a) in respect of land situated in a municipality the council of which has the powers conferred by section 34 shall be deemed for all purposes except the purposes of section 24 to be a by-law passed by the council of the municipality in which the land is situated and to be in force in the municipality.

(5) No notice or hearing is required prior to the making of an order under subsection (1) but the Minister shall give notice of any such order within thrity days of the making thereof in such manner as he considers proper and shall set out in the notice the provisions of subsections (8), (9) and (10).

(6) The Minister shall cause a duplicate or certified copy of an order made under clause (1)(a).

(a) where the land affected is situated in a local municipality, to be lodged in the office of the clerk of the municipality, or where the land affected is situated in two or more local municipalities in the office of the clerk of each of such municipalities and the provisions of subsection 78(2) of The Municpal Act apply with the necessary modifications; and

(b) where the land affected is situated in terrritory without municipal organization, to be lodged in the proper land registry office, where it shall be made available to the public as a production.

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(7) The Minister shall cause a certified copy or duplicate of an order made under clause (1)(b) to be registered in the proper land registry office.

(8) The Minister may, on his own initiative or at the request of any person, by order amend or revoke in whole or in part any order made under subsection (1).

(9) Except as provided in subsection (10), the Minister before amending or revoking in whole or in part an order made under subsection (1) shall give notice or cause to be given notice thereof in such manner as he considers proper and shall allow such period of time as he considers appropriate for the submission of representations in respect thereof.

(10) Where an application is made to the Minister to amend or revoke in whole or in part any order made under subsection (1), the Minister may, and on the request of any person shall, request the Municipal Board to hold a hearing on the application and thereupon the Board shall hold a hearing as to whether the order should be amended or revoked in whole or in part.

(11) Notwhithstanding subsection (10), where the Minister is of the opinion that a hearing by the Municipal Board would serve no useful purpose or that the request is made only for the purpose of delay, he may refuse a request.

(12) Where the Minister has requested the Municipal Board to hold a hearing as provided for in subsection (10) notice of the hearing shall be given in such manner and to such persons as the

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| Board may direct, and the Board shall hear any submissions that any person may desire to bring to the attention of the Board. | |
| (13) At the conclusion of the hearing, the Municipal Board shall make a report to the Minister in which shall be set out the Board's findings and recommendations in respect of the application and shall send a copy of the report to each person who appeared at the hearing and made representation on the matter. | In accordance with the previous position of the Association the OMB should be the final arbiter with repect to appeals by the Minister on matters which adversely affect provincial interests. |
| (14) After considering the report of the Municipal Board, the Minister may either amend or revoke the order in whole or in part or refuse to amend or revoke the order in whole or in part and the decision of the Minister is final. | |
| (15) An order of the Minister made under clause (1)(b) has the same effect as a by-law passed under subsection 50(4). | |
| **48.** Despite the provisions of any other general or special Act, a licence, permit, approval or permission shall not be issued or granted nor any utility or service provided by a public utilities commission or other public or Crown agency in respect of any land, building or structure where the proposed use of the land or the erection or proposed use of the building or structure would be in contravention of section 46 or of an order made under section 47. | |

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| **49.** (1) In this section, "officer" means an officer who has been assigned the responsibility of enforcing section 46, orders of the Minister made under clause 47(1)(a) or zoning by-laws passed under section 34. | In accordance with the previously stated position of the Association all definitions should be included in Section 1. |
| (2) Where an officer believes on reasonable grounds that section 46, an order of the Minister made under clause 47(1)(a) or a by-law passed under section 34, 37 or 40 is being contravened the officer or any other person acting under his instructions may, at all reasonable times and upon producing proper identification enter and inspect any property on or in respect of which he believes the contravention is occuring. | |
| (3) An officer or any person acting under his instructions shall not enter any room or place actually used as a dwelling without the consent of the occupier except under the authority of a search warrant issued under section 142 of The Provincial Offences Act. | |
| **PART VI SUBDIVISION OF LAND** | |
| **50.** (1) In this section and in section 53 "consent" means,<br>(a) where the land is situated within a regional municipality or is situated within The Municipality of Metropolitan Toronto, the District Municipality of Muskoka or the County of Oxford, a consent given by the regional council, the Metropolitan Council, the District Council or the County Council, as the case may be; | In accordance with the previously stated position of the Association all definitions should be included in Section 1. |

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(b) where the land is situated within a town, village or township that forms part of a county, for municipal purposes, a consent given by the council of the county;

(c) where the land is situated within a local municipality that is within a county, but that does not form part of the county for municipal purposes, a consent given by the council of the local municipality;

(d) where the land is situated within a city that is within a territorial district, other than a city within a regional or district municipality, a consent given by the council of the city; or

(e) where the land is situated in a territorial district but is not within a regional or district municipality or is not within a city, a consent given by the Minister

and a reference herein and in section 53 to the Minister or to a council, as the case may be, includes a delegate thereof as provided for in sections 4 and 54.

(2) For the purposes of this section, land shall be deemed and shall always have been deemed not to abut land that is being conveyed or otherwise dealt with if it abuts such land on a horizontal plane only.

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(3) No person shall convey land by way of a deed, transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless,

(a) the land is described in accordance with and is within a registered plan of subdivision; or

(b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment with respect to , any land abutting the land that is being conveyed, or otherwise dealt with; or

(c) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality; or

(d) the land or any use of or right therein is being acquired for the construction of a transmission line as defined in The Ontario Energy Board Act and in respect of which the person acquiring the land or any use of or right therein has made a declaration

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| that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose; or | |
| (e) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment with respect to the land or enter into an agreement with respect to the land. | |
| (4) The council of a local municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection (3). | The Association suggests that in cases where the owner agrees to have the registered plan deemed not to be a registered plan that the eight year period be waived. |
| (5) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed, or transfer, or grant, assign or exercise a power of appointment in respect of a part of any lot or block of the land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless, | |
| (a) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or | |

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the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with;

(b) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada, Her Majesty in right of Ontario, Ontario Hydro or by any municipality;

(c) the land or any use of or right therein is being acquired for the construction of a transmission line or utility line, both as defined in the Ontario Energy Board Act, and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose.

(d) the land that is being conveyed, or otherwise dealt with is the remaining part of a lot or block, the other part of which was acquired by expropriation; or

(e) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment in respect of the land or enter into an agreement in respect of the land.

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| (6) Despite subsection (5), the council of a local municipality may by by-law provide that subsection (5) does not apply to land that is within such registered plan or plans for subdivision or part or parts thereof as is or are designated in the by-law, and, where the by-law is approved by the Minister, subsection (5) ceases to apply to such land, provided that the by-law, without requiring the approval of the Minister, may be repealed, or may be amended to delete part of the lands described therein, and when the requirements of subsection (23) have been complied with, subsection (5) thereupon applies to the lands affected by the repeal or amendment. | |
| (7) Nothing in subsections (3) and (5) prohibits, and subsections (3) and (5) shall be deemed never to have prohibited, the giving back of a mortgage or charge by a purchaser of land to the vendor of the land as part or all of the consideration for the conveyance of the land, provided that the mortgageor charge applies to all of the land described in the conveyance. | |
| (8) Nothing in subsections (3) and (5) prohibits the entering into of an agreement that has the effect of granting the use of or right in a part of a building or structure for any period of years. | The Association is concerned that this subsection of Bill 159 could be used to circumvent the Condominium Act with respect to multiple unit residential buildings. Therefore AMO recommends that this section be deleted. |
| (9) This section does not apply to an agreement entered into under section 2 of The Drainage Act. | |

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(10) This section does not apply so as to prevent the Agricultural Rehabilitation and Development Directorate of Ontario from conveying or leasing land where the land that is being conveyed or leased comprises all of the land that was acquired by the Directorate under one registered deed or transfer.

(11) Where a parcel of land is conveyed by way of a deed or transfer with a consent given under section 53, subsections (3) and (5) of this section do not apply to a subsequent conveyance of, or other transaction involving, the identical parcel of land unless the council or the Minister, as the case may be, in giving the consent, stipulates either that subsection (3) or subsection (5) shall apply to any such subsequent conveyance or transaction.

(12) Where the council or the Minister stipulates in accordance with subsection (11), the certificate provided for under subsection 53(20) shall contain a reference to the stipulation, and if not so contained the consent shall be conclusively deemed to have been given without the stipulation.

(13) Where land is within a registered plan of subdivision or within a registered description under The Condominium Act or where land is conveyed with a consent give under section 53 or a predecessor thereof, any contravention of this section or a predesessor thereof or of a by-law passed under a predesessor of this section or of an order made under clause 27(1)(b) as it existed on the 25th day of June, 1970, of The Planning Act, being chapter 296 of the Revised Statutes of Ontario,

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| 1960, or a predecessor thereof, that occurred prior to the registration of the plan of subdivision or description or prior to the conveyance, as the case may be, does not and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in the land, provided this subsection does not affect the rights acquired by any person from a judgement or order of any court given or made on or before the 15th day of December, 1978. | |
| (14) Where a person conveys land or grants, assigns or exercises a power of appointment with respect to land, or mortgages or charges land, or enters into an agreement of sale and purchase of land, or enters into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more by way of simultaneous dealings with abutting lands, the person so conveying or otherwise dealing with the land shall be deemed for the purposes of subsections (3) and (5) to retain, as the case may be, the fee or the equity of redemption in, or the power or right to grant, assign or exercise a power of appointment with respect to, land abutting the land that is being conveyed or otherwise dealt with. | |
| (15) Where a person gives a partial discharge of a mortgage on land or gives a partial cessation of a charge on land, the person giving the partial discharge or partial cessation shall be deemed to hold the fee in the lands mentioned in the mortgage or charge and to retain, after the giving of the | |

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partial discharge or partial cessation, the fee in the balance of the lands, and for the purposes of this section shall be deemed to convey by way of deed or transfer the land mentioned in the partial discharge or partial cessation.

(16) Subsection (15) does not apply to a partial discharge of mortgage or partial cessation of charge where the land described in the partial discharge or partial cessation,

(a) is the same land in respect of which a consent to convey has previously been given; or

(b) includes only the whole of one or more lots or blocks within a registered plan of subdivision, unless such plan of subdivision has been designated under subsection (4); or

(c) is owned by her Majesty in right of Canada or Her Majesty in right of Ontario, Ontario Hydro or by any municipality.

(17) No foreclosure of or exercise of a power of sale in a mortgage or charge shall have any effect in law without the approval of the Minister unless all of the land subject to such mortgage or charge is included in the foreclosure or exercise of the power of sale, as the case may be, but this subsection does not apply where the land foreclosed or in respect of which the power of sale is exercised comprises only,

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| (a) the whole of one or more lots or blocks within one or more registered plans of subdivision; or | |
| (b) one or more parcels of land that do not abut any other parcel of land that is subject to the same mortgage or charge. | |
| (18) Where a joint tenant or tenant in common of land releases or conveys his interest in such land to one or more other joint tenants or tenants in common of the same land while holding the fee in any abutting land, either by himself or together with any other person, he shall be deemed, for the purposes of subsections (3) and (5), to convey such land by way of deed or transfer and to retain the fee in the abutting land. | |
| (19) No order made under The Partition Act for the partition of land shall have any effect unless, | |
| (a) irrespective of the order, each part of the land described in the order could be conveyed without contravening this section; or | |
| (b) a consent is given to the order | |
| (20) Where a provision is contained in a will for the division of land between two or more persons such provision shall have no effect in law unless, | The Association concurs with the inclusion of this subsection in Bill 159 respecting the use of wills to divide and convey property. |
| (a) irrespective of the provision in the will, each part of the land described in the will could be conveyed without contravening this section; or | |

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| (b) a consent is given to the provision in the will. | |
| (21) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with. | |
| (22) A certified copy or duplicate of every by-law passed under subsection (4) shall be lodged by the clerk of the municipality in the office of the Minister. | |
| (23) A by-law passed under subsection (4) is not effective until the requirements of subsection (24) have been complied with. | |
| (24) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper land registry office. | |
| (25) No notice or hearing is required prior to the passing of a by-law under subsection (4), but the council shall give notice of the passing of any such by-law within thirty days of the passing thereof to each person appearing on the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person. | |

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| (26) The council shall hear in person or by his agent any person to whom a notice was sent under subsection (25), who within twenty days of the mailing of the notice to him gives notice to the clerk of the municipality that he desires to make representations respecting the amendment or repeal of the by-law. | |
| **51.** (1) An owner of land or his agent duly authorized in writing may apply to the Minister for approval of a plan of subdivision of his land or part thereof. | |
| (2) An applicant under subsection (1) shall provide as many copies as may be required by the Minister of a draft plan of the proposed subdivision drawn to scale and showing,<br>(a) the boundaries of the land to be subdivided, certified by an Ontario land surveyor;<br>(b) the locations, widths and names of the proposed highways within the proposed subdivision and of existing highways on which the proposed subdivision abuts;<br>(c) on a small key plan, on a scale of not less than one centimetre to 100 metres, all of the land adjacent to the proposed subdivision that is owned by the applicant or in which he has an interest, every subdivision adjacent to the proposed subdivision and the | AMO recommends that a clause be added after clause (1) of subsection 51(2) which requires the applicant to indicate on the draft plan submitted to the Minister "such other matters as may be specified in the official plan of the local municipality". |

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| relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part; | |
| (d) the purpose for which the lots are to be used; | |
| (e) the existing uses of all adjoining lands; | |
| (f) the approximate dimensions and layout of the proposed lots; | |
| (g) natural and artificial features such as buildings or other structures or installations, railways, highways, watercourses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided; | |
| (h) the availability and nature of domestic water supplies; | |
| (i) the nature and porosity of the soil; | |
| (j) existing contours of elevations as may be required to determine the grade of the highways and the drainage of the land; | |
| (k) the municipal services available or to be available to the land proposed to be subdivided; and | |
| (l) the nature and extent of any restrictive covenants or easements affecting the land proposed to be subdivided. | |

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| (3) The Minister may confer with municipal, provincial or federal officials, with officials of commissions, authorities or corporations and with such other bodies of persons as the Minister considers may have an interest in the approval of the proposed subdivision. | In accordance with the previously stated position of the Association the words "shall confer with the municipality in which the proposed subdivision is located and" should be added after the word "Minister" in the first line. |
| (4) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience and welfare of the present and future inhabitants of the local municipality and to the following, | |
| (a) the effect of development of the proposed subdivision on provincial policies as referred to in section 2; | |
| (b) whether the porposed subdivision is premature or in the public interest; | |
| (c) whether the plan generally conforms to the official plan and adjacent plans of subdivision, if any; | AMO recommends that the word "generally" be deleted from subsection 51(4)(c). |
| (d) the suitability of the land for the purposes for which it is to be subdivided; | |
| (e) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity, and, the adequacy thereof; | |

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| (f) the dimensions and shape of the lots; | |
| (g) the restrictions or proposed restrictions, if any, on the land, buildings and structures proposed to be erected thereon and the restrictions, if any, on adjoining lands; | |
| (h) conservation of natural resources and flood control; | |
| (i) the adequacy of utilities and municipal services; | |
| (j) the adequacy of school sites; | |
| (k) the area of land, if any, within the subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes; and | |
| (l) the physical layout of the plan having regard to energy conservation. | |
| (5) The Minister may impose such conditions to the approval of a plan of subdivision as in his opinion are reasonable, having regard to the nature of the development proposed for the subdivision and in particular, but without restricting in any way whatsoever the generality of the foregoing, he may impose as a condition, | |
| (a) that land to an amount to be determined by the Minister but not exceeding in the case of a subdivision proposed for commmercial or industrial | In accordance with the previously stated position of the Association, a municipality which has an official plan should be permitted to adopt in its official plan provisions for land |

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| purposes, 2 per cent and in all other cases 5 per cent of the land included in the plan shall be conveyed to the local municipality for park or other public recreational purposes or, if the land is not in a municipality, shall be dedicated for park or other public recreational purposes; | to be conveyed to the municipality as a condition of approval of a plan of subdivision and where there is no official plan a maximum of five percent shall be conveyed. |
| (b) that such highways shall be dedicated as the Minister considers necessary; | |
| (c) when the subdivision abuts on an existing highway that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to such width as the Minister considers necssary; and | |
| (d) that the owner of the land enter into one or more agreements with a municipality, or where the land is not in a municipality, with the Minister, dealing with such matters as the Minister may consider necessary, including the provision of municipal services. | |
| (6) Every municipality and the Minister may enter into agreements imposed as a condition to the approval of a plan of subdivision and any such agreement may be registered against the land to which it applies and the municipality or the Minister, as the case may be, shall be entitled to enforce the provisions thereof against the owner and, subject to the provisions of The Registry Act and The Land Titles Act, any and all subsequent owners of the land. | |

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| (7) Where the Minister has imposed a condition under clause (5)(a) requiring land to be conveyed to the municipality and where the municipality has an official plan that contains specific policies relating to the provision of lands for park or other public recreational purposes the municipality, in the case of a subdivision proposed for residential purposes, may, in lieu of such conveyance, require that land included in the plan be conveyed to the municipality for park or other public recreational purposes at a rate of one hectare for each 300 dwelling units proposed or at such lesser rate as may be determined by the municipality. | In accordance with the Association's comments on subsection 51(5)(a) subsection 51(7) should be deleted. |
| (8) Where the Minister has imposed a condition under clause (5)(a) requiring land to be conveyed to the municipality, the municipality may, in lieu of accepting such conveyance, require the payment of money by the owner of the land,<br>(a) to the value of the land otherwise required to be conveyed; or<br>(b) where the municipality would be entitled to require a conveyance under subsection (7), to the value of the land that would otherwise be required to be so conveyed. | Clauses (a) and (b) of subsection 51(8) should be deleted and the words "to the value of the land otherwise required to be conveyed" should be added after the word "land" in the last line. |
| (9) For the purpose of determining the amount of any payment required under subsection (8), the value of the land shall be determined as of the day before the day of the draft approval of the plan and where the owner and the municipality are unable to agree on the value, either party may apply to | The words "For the purpose of... the day of the draft approval of the plan and" should be deleted and the words "of the land to be conveyed to the municipality under clause (5)(a) should be added after the word "value". |

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| the Land Compensation Board to have the value determined and the Board shall, in accordance as nearly as may be with the provisions of The Expropriation Act, determine the value of the land. | The Association suggests that provisions be included in the legislation to permit the Land Compensation Board to award costs associated with the hearing to either party. |
| (10) Land conveyed to a municipality pursuant to a condition imposed under subsection (5) shall be used for park or other public recreational purposes but may be sold at any time. | In accordance with the previously stated position of the Association the lands referred to in subsection 51(10) after being sold should be able to be used for any purpose that does not contravene the official plan of the municipality. |
| (11) The council of a municipality may include in its estimates an amount to be used for the acquisition of lands to be used for park or other public recreational purposes and may pay into the fund provided for in subsection (12) the sum so included in the estimates, and any person may pay any sum into the same fund. | |
| (12) All moneys received by the municipality under subsections (8) and (11) and all moneys received on the sale of land under subsection (10), less any amount expended by the municipality out of its general funds in respect of such land, shall be paid into a special account, and the moneys in such special account shall be expended only for the acquisition of lands to be used for park or other public recreational purposes, including the erection or repair of buildings or other structures thereon or for the maintenance of lands, buildings or structures used for park or other public recreational purposes, including the acquisition of | |

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| machinery and equipment required for such maintenance, and the moneys in such special account may be invested in such securities as a trustee may invest in under The Trustee Act, and the earnings derived from the investment of such moneys shall be paid into such special account, and the auditor in his annual report shall report on the activities and position of the account. | |
| (13) The Minister may, subject to subsections (14) and (15), give or refuse to give his approval to a draft plan of subdivision. | |
| (14) Where the Minister proposes to refuse to give his approval to a draft plan of subdivision, the Minister shall send notice to the applicant together with written reasons as to why he proposes to refuse his approval and where the applicant does not, within sixty days of the sending of the notice, request the Minister to refer the draft plan to the Municipal Board, the approval of the Minister shall be deemed to have been refused. | The Association suggests that, where the Minister refuses to approve a draft plan of subdivision, the municipality in which the subdivision is situated should also be notified. |
| (15) At any time before the Minister has given or has refused to give his approval to a draft plan of subdivision the Minister may, and upon application therefor shall, refer the draft plan of subdivision to the Municipal Board unless, in his opinion, referral to the Board would serve no useful purpose or unless, in his opinion, the request is made only for the purpose of delay and where the draft plan is referred to the Board the Board shall hear and determine the matter. | Similar to a previously stated position of the Association, subsections 51(15) and 51(17) state that the Board will "determine" matters referred to it by the Minister. It is unclear as to exactly what this terminology means. The Association suggests that a consistent terminology be adopted for all such statements in Bill 159. |
| (16) Where an application is made under subsection (15), the application shall be accompanied by written reasons in support thereof. | |

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| (17) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situated, is not satisfied as to the conditions or any of the conditions, imposed or to be imposed, he or it, at any time before the plan of subdivision is finally approved, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister, and the Board shall then hear and determine the question as to the condition or conditions so referred to it. | This subsection does not appear to permit the municipality to apply to the OMB to have conditions imposed which the Minister refused to impose but only to appeal those conditions imposed by the Minister. The Association recommends that a clause be added to permit appeals to the OMB for the purpose of adding conditions to the draft approval. |
| (18) The Minister may, in his discretion, withdraw his approval to a draft plan of subdivsion or change the conditions of such approval at any time prior to his approval of a final plan for registration. | The Association recommends that the provisions of subsection 36(13) of The Planning Act, R.S.O. 1980, Chapter 379 be retained in this section of Bill 159 with the exception that draft approval may only be extended with the approval of the municipality.<br>Further, with respect to subsection (18) the Association believes that the Minister should consult with the municipality in which the subdivision is located before making any changes to the conditions imposed on the draft approval. |
| (19) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with The Surveys Act and The Registry Act or The Surveys Act and The Land Titles Act, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor. | |

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| (20) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity with the approved draft plan and that the conditions of approval have been or will be fulfilled, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration. | |
| (21) When a final plan for registration is approved under subsection (20) and is not registered within thirty days of the date of approval, the Minister may withdraw his approval. | |
| (22) In addition to any requirement under The Registry Act or The Land Titles Act, the person tendering the plan of subdivision for resgistration shall deposit with the land registrar a duplicate, or when required by the Minister two duplicates, of the plan of a type approved by the Minister, and the land registrar shall endorse thereon a certificate showing the number of the plan and the date when the plan was registered and shall deliver such duplicate or duplicates to the Minister. | |
| (23) Approval of a plan of subdivision by the Minister does not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act. | |
| **52.** (1) No person shall offer for sale, agree to sell or sell land by a description in accordance with an unregistered plan of subdivision, other than a plan of subdivision in respect of which draft approval has been given under section 51. | The Association feels that this clause would permit the sale of lots which are shown on a draft approved plan of subdivision. Therefore it is recommended that the words "or sell" be deleted from 52(1) and that the word "or" be |

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|  | added after the word "sale" in the first line of subsection 52(1). |
| (2) In subsection (1), "unregistered plan of subdivision" does not include a reference plan of survey under section 149 of The Land Titles Act that complies with the regulations under that Act or a plan deposited under Part II of The Registry Act in accordance with the regulations under that Act. | In accordance with the previously stated position of the Association all definitions should be included in Section 1. |
| 53. (1) An owner of land or his agent duly authorized in writing may apply for a consent as defined in subsection 50(1) and the council or the Minister, as the case may be, may, subject to subsections (2) to (19), give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. |  |
| (2) A council or the Minister, as the case may be, in determining whether a consent is to be given shall have regard to the matters that are to be had regard to under subsection 51(4) and has the same powers with respect to a consent as the Minister has with respect to an approval of a plan of subdivision under subsection 51(5), and subsections 51(5), (7), (8), (9), (10) and (12) apply with the necessary modifications. | The Association believes that the second reference to subsection 51(5) and its application, with the necessary modifications, to the granting of a consent should in fact be a reference to Section 51(6). |
| (3) Where, on the giving of a consent, land is required to be conveyed to a municipality for park or other public recreational purposes and the council of the municipality requires the payment of | In accordance with the previously stated position of the AMO subsection 53(3) should be rewritten as follows: |

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| money to the value of the land in lieu of the conveyance, for the purpose of determining the amount of the payment the value of the land shall be determined as of the day before the day of the giving of the consent. | "(3) Where, on the giving of a consent, land is required to be conveyed to a municipality for park or other public recreational purposes the council of the municipality may require the payment of money to the value of the land in lieu of the conveyance." |
| (4) A council, in determining whether a consent is to be given, shall confer with such agencies or persons as are prescribed. | |
| (5) Where a decision is made by a council to give a consent, written notice of the decision, setting out the conditions, if any, imposed to the giving of the consent, shall be sent, not later than ten days from the making of the decision, to the applicant, and to every agency or person conferred with under subsection (4) that in writing requested to be given notice of the decision, to any other person who in writing requested to be given notice of the decision and to the Minister, if the Minister has notified the council by registered mail that he wishes to receive a copy of all decisions made to give a consent. | In accordance with the previously stated position of the Association the ten day period should be changed to fifteen days. |
| (6) Where a decision is made by a council to refuse to give a consent, written notice of the decision shall be sent not later than ten days from the making of the decision to the applicant and to the agencies and persons mentioned in subsection (4) other than the Minister together with written reasons for the decision. | Similar to subsection 53(5) the ten day period should be changed to fifteen days. |
| (7) The applicant, the Minister and every agency or other person to whom notice of the decision was sent may within thirty days of the making of the decision appeal to the Municipal Board | |

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| against the decision by filing with the clerk of the municipality, the council of which made the decision, a notice of appeal setting out written reasons in support of the appeal and accompanied by payment to the clerk of the fee prescribed by the Municipal Board under The Ontario Municipal Board Act. | |
| (8) The clerk of the municipality upon receipt of a notice of appeal filed under subsection (7) shall forthwith forward the notice of appeal and the amount of the fee mentioned in subsection (7) to the Municipal Board by registered mail together with all papers and documents filed with the council relating to the matter appealed from and such other documents and papers as may be required by the Board. | |
| (9) The Minister in determining whether a consent is to be given shall confer with such officials, authorities, corporations, bodies or persons as the Minister considers may have an interest in the application and thereafter may, subject to subsections (10) to (18), give, or refuse to give, the consent. | |
| (10) Where the Minister proposed to impose conditions to the giving of a consent, the Minister shall give written notice to the applicant specifying the conditions, and the Minister may change the conditions at any time prior to the giving of the consent. | The Association suggests that any notice sent to the applicant by the Minister under Section 53 also be forwarded to the municipality or the planning board, whichever applies, and that before changing the conditions imposed that the Minister consult with the municipality or planning board, whichever is appropriate. |
| (11) Where the Minister proposes to refuse to give a consent, the Minister shall send notice to the applicant together with written reasons as to why it is proposed to refuse to give the consent | |

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| and where the applicant does not, within sixty days of the sending of the notice, request the Minister to refer the application for consent to the Municipal Board, the consent shall be deemed to have been refused. | |
| (12) At any time before written notice is given to an applicant under subsection (10) specifying conditions the Minister may, and upon application therefor accompanied by written reasons in support thereof shall, refer the application for consent to the Municipal Board unless, in the opinion of the Minister, referral to the Board would serve no useful purpose or unless, in the opinion of the Minister, the request is made only for the purpose of delay, but in no event may an application for consent be referred to the Board after the Minister has given or refused to give the consent. | |
| (13) Where the owner of the land, the local municipality or the county or regional, metropolitan or district municipality, if any, in which the land is situated, is not satisfied as to the conditions or any of the conditions imposed or to be imposed by the Minister, he or it, at any time before the consent is given, may require the condition or conditions that are unsatisfactory to be referred to the Municipal Board by written notice to the secretary of the Board and to the Minister. | Consistent with the Association's comments on subsection 51(17) AMO recommends that the municipality or planning board be permitted to appeal to the OMB to add any conditions which were not imposed by the Minister. |

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| (14) On an appeal to the Board under subsection (7) or where an application for a consent is referred to the Board under subsection (12) or where conditions are referred to the Board under subsection (13), the Board shall hold a hearing of which notice shall be given to such agencies or persons and in such manner as the Board may determine. | The Association recommends that a subsection be added to Section 53, similar in nature to Subsection 45(15) which would provide that the decision of Council with respect to a consent would be final if all appeals to the OMB were withdrawn prior to a hearing and that the hearing would not be required. |
| (15) Despite subsection (14), the Board may, where it is of the opinion that the reasons in support of an appeal under subsection (7) are insufficient, dismiss the appeal without holding a hearing and where the Board does so it shall give written reasons therefor to the appellant, to the applicant where he is not the appellant and to the council that made the decision from which the appeal was made. | |
| (16) Following the hearing on an appeal under subsection (7) or a referral under subsection (12), the Board may make any decision that the council or the Minister, as the case may be, could have made on the original application and on a referral of conditions under subsection (13) the Board shall determine the question as to the condition or conditions referred to it. | Similar to other subsections of Bill 159, subsection 53(16) states that the OMB will "determine the question" with respect to an appeal against a decision made on a consent application while subsection 53(17) refers to a decision of the OMB. The Association suggests that the meaning of the two terms be clarified and that uniform terminology be used throughout Bill 159. |
| (17) Where under subsection (16) the decision of the Municipal Board is that a consent be given, the council or the Minister, as the case may be, shall thereupon give the consent, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled. | |

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(18) Where the decision of the council or the Minister on an application is to give a consent and there has been no appeal under subsection (7) and no referral under subsection (12), the consent may be given, except that where conditions have been imposed the consent shall not be given until the council or the Minister is satisfied that the conditions have been fulfilled.

(19) Where conditions have been imposed and the applicant has not, within a period of one year from the giving of the notice mentioned in subsection (5) or (10), as the case may be, fulfilled the conditions, the application for consent shall thereupon be deemed to be refused.

(20) When a consent has been given under this section, the clerk of the municipality, the council of which gave the consent or the Minister, as the case may be, shall give a certificate to the applicant stating that the consent has been given and the certificate is conclusive evidence that the consent was given and that the provisions of this Act leading to the consent have been complied with and that, notwithstanding any other provision of this Act, the council or the Minister had jurisdiction to grant the consent and after the certificate has been given no action may be maintained to question the validity of the consent but where the authority to give consents has been delegated under section 54 to a land division committee or to a committee of adjustment the certificate shall be given by the secretary-treasurer of the appropriate committee.

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| (21) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (20) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister, as the case may be, in giving the consent may provide for an earlier lapsing of the consent. | |
| **54.** (1) The council of a county or of a regional, metropolitan or district municipality, with the approval of the Minister, may, by by-law, delegate to the council of a constituent local or area municipality, as the case may be, the authority for the giving of consents under section 53 in respect of land situate in the local or area municipality. | The Association believes that criteria must be established for the delegation of consent granting authority to the local municipalities, similar to that which will apply to the delegation of subdivision approval authority. Any local municipality which meets the specified criteria and requests the approval authority should in turn be granted such. Also, there should be provisions for the Minister to arbitrate in cases where there is some dispute as to whether or not the local municipality has fulfilled the specified criteria for delegation. |
| (2) Where authority is delegated to a council under subsection (1), such council may, in turn, by by-law, delegate the authority or any part of such authority, to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment. | |
| (3) The Minister may, at any time, revoke the approval given under subsection (1) by giving written notice thereof to the clerk of the council that passed the delegating by-law and to the clerk of the council that received the delegated authority and when such notice is given the delegation is thereupon terminated except that all applications for consent made prior to the giving of the notice shall continue to be dealt with as if the delegation had not been terminated. | |

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| (4) Except as delegated under subsection (1), the authority or any part of such authority of a council of a county or of a council of a regional, metropolitan or district municipality may be delegated by the council to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a land division committee. | |
| (5) The council of a city that is not situated within a regional municipality or that is not situate within the Municipality of Metropolitan Toronto, the District Municipality of Muskoka or the County of Oxford and the council of any other local municipality that is within a county but that does not form part of the county for municipal purposes may, by by-law, delegate the authority of the council under section 53 or any part of such authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment. | |
| (6) Where, under subsection (2) or (5), a committee of adjustment has had delegated to it the authority to give a consent, the provisions of subsections 53(2) to (21) apply with necessary modifications and the provisions of subsections 45(4) to (20) do not apply, in the exercise of that authority. | |
| (7) A delegation of authority made by a council under this section may be subject to such conditions as the council by by-law provides and the council may by by-law withdraw the delegation of authority, provided however, where authority delegated under subsection (1) is withdrawn, all applications for consent made prior to the withdrawal shall continue to be dealt with as if the delegation had not been withdrawn. | |

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| 55. (1) The Minister by order may constitute and appoint one or more district land division committees composed of such persons as he considers advisable and may by order delegate thereto the authority of the Minister to give consents under section 53 in respect of such lands situated in a territorial district as are defined in the order. | |
| (2) A delegation made by the Minister under subsection (1) may be subject to such conditions as the Minister may by order provide and the Minister may by order withdraw any delegation. | |
| (3) Where the Minister has delegated his authority to a district land division committee under subsection (1), the provisions of subsections 44(5), (6), (7), (8), (10) and (11) apply with the necessary modifications. | |
| (4) A district land division committee may enter into agreements imposed as a condition to the giving of a consent in respect of land situated in territory without municipal organization and the provisions of subsection 6 of section 51 apply with the necessary modifications to any such agreement. | |
| (5) The members of a district land division committee appointed under this section shall be paid such remuneration as is provided for by the order appointing them. | |
| (6) The monies received by a district land division committee by way of fees in respect of application made to it shall be paid into the Consolidated Revenue Fund. | |

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| **56.** (1) The council of a county or of a regional, metropolitan or district municipality may by by-law constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable. | |
| (2) The provisions of subsections 44(2) to (11) apply, with the necessary modifications, where a land division committee is constituted under subsection (1) of this section. | |
| **57.** (1) The Minister may, by order, in respect of land described in the order provide that the contravention, before the 19th day of March, 1973, of section 29 of The Planning Act, being chapter 349 of the Revised Statutes of Ontario, 1970, or a predecessor thereof or of a by-law passed under a predecessor of section 29 or of an order made under clause 27(1)(b), as it existed on the 25th day of June, 1970, of The Planning Act, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgement or order of any court, given or made on or before the day on which the order is made by the Minister. | |
| (2) No order shall be made by the Minister under subsection (1) in respect of land situated in a local municipality unless the council of the local municipality in which the land is situated has, by by-laws requested the Minister to make such order, which such by-law the council is hereby empowered to pass. | |

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| **56.** (1) The council of a county or of a regional, metropolitan or district municipality may by by-law constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable. | |
| (2) The provisions of subsections 44(2) to (11) apply, with the necessary modifications, where a land division committee is constituted under subsection (1) of this section. | AMO suggests that the words "and subsections 53(2) to (21)" be added to this subsection after the phrase "44(2) to (11)". |
| **57.** (1) The Minister may, by order, in respect of land described in the order provide that the contravention, before the 19th day of March, 1973, of section 29 of The Planning Act, being chapter 349 of the Revised Statutes of Ontario, 1970, or a predecessor thereof or of a by-law passed under a predecessor of section 29 or of an order made under clause 27(1)(b), as it existed on the 25th day of June, 1970, of The Planning Act, being chapter 296 of the Revised Statutes of Ontario, 1960, or a predecessor thereof does not have and shall be deemed never to have had the effect of preventing the conveyance of or creation of any interest in such land, provided that the order does not affect the rights acquired by any person from a judgement or order of any court, given or made on or before the day on which the order is made by the Minister. | |
| (2) No order shall be made by the Minister under subsection (1) in respect of land situated in a local municipality unless the council of the local municipality in which the land is situated has, by by-laws requested the Minister to make such order, which such by-law the council is hereby empowered to pass. | |

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| (3) A council may, as a condition to the passage of a by-law under subsection (2), impose such conditions in respect of any land described in the by-law as it considers appropriate. | |
| (4) Nothing in this section derogates from the power a council or the Minister has to grant consents referred to in section 53. | |
| **PART VII MISCELLANEOUS PROVISIONS** | |
| **58.** The provisions of The Municipal Act apply to the acquisition of land under this Act. | |
| **59.** When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held. | Section 59 would appear to give the municipality the authority to prepare land for development and service such land while Section 25 would appear to permit the municipality to contribute toward the cost of acquiring land needed to implement some aspect of the official plan. The Association suggests that the provisions of Section 59 be incorporated into Section 25 to permit the municipality to contribute towards the acquisition and servicing of land or to acquire and service the land in order to implement part of the official plan. If this recommendation is followed section 59 could be deleted. |
| **60.** When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefore may be land then owned by the municipality. | |

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| **61.** Notwithstanding any general or special Act, The Statutory Powers Procedure Act, 1971 does not apply to any proceedings under section 17, 28 or 34 in or before the council of a municipality or a committee of council or, under section 19, in or before a planning board. | Although Section 61 indicates that The Statutory Powers and Procedures Act does not apply to "public meetings" held in accordance with Sections 17, 28 or 34 legal opinions suggest that common law and the concepts of natural justice would require council to hold a "full and fair hearing". This, in effect, would require council to act in a judicial rather than a legislative manner. The Association is concerned that this would result in serious time delays with respect to the planning process and serious problems with the operation of the municipality generally. |
| **62.** (1) Except as provided in section 3, 6, 48 and subsection (2) of this section, this Act does not affect Ontario Hydro. | The Association believes that Ontario Hydro should in fact be subject to the provisions of The Planning Act and to the provisions of local planning documents with respect to all of its undertakings. Therefore it is recommended that Section 62 be deleted. |
| (2) Land and buildings owned by Ontario and used for executive, administrative or retail purposes or held under lease or license from Ontario Hydro and any undertaking of Ontario Hydro, unless approved or exempted under the Environmental Assessment Act, are subject to this Act. | |
| **63.** (1) Where a matter is referred to the Municipal Board under this Act the approval or consent of the Municipal Board has the same force and effect as if it were the approval or consent of the Minister or the council of a municipality. | |

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| (2) Where an approval or consent is given under this Act the provisions of this Act leading to such approval or consent shall be deemed to have been complied with. | AMO considers this particular subsection to be significant to the operation of the planning function in Ontario and therefore suggests that it be given more prominence in Bill 159. |
| **64.** Despite section 94 of The Ontario Municipal Board Act, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter referred or appealed to the Municipal Board under this Act. | |
| **65.** When under this Act, the Minister has referred a matter to the Municipal Board, the matter may be taken back from the Board by the Minister at any time prior to a decision in respect thereof having been made by the Board, provided, however, that where a matter has been referred to the Board pursuant to the request of any person, the matter shall not be taken back from the Board by the Minister except on the further request of such person and with the concurrence of all other persons, if any, who had requested that the matter be referred to the Board. | |
| **66.** Where the Minister or the council of a municipality delegates under this Act the authority to give an approval or consent, an approval or consent given under the authority has the same force and effect as if it were the approval or consent of the Minister or the council, as the case may be. | |

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**67.** (1) Every person who contravenes section 41, 46 or 52 or who contravenes a by-law passed under section 34, 37 or 40 or an order made under section 47, is guilty of an offence and on conviction is liable,

(a) on a first conviction to a fine of not more than $20,000; and

(b) on a subsequent conviction to a fine of not more than $10,000 for each day or part thereof upon which the contravention has continued after the day on which he was first convicted.

(2) Where a corporation is convicted under subsection (1), the maximum penalty that may be imposed is,

(a) on a first conviction a fine of not more than $50,000; and

(b) on a subsequent conviction a fine of not more than $25,000 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted,

and not as provided in subsection (1).

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| (3) Where a conviction is entered under subsection (1), in addition to any other remedy or any penalty provided by law, the court in which the conviction has been entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person convicted. | |
| **68.** (1) Despite section 57 of The Assessment Act, it is not an offence to disclose the information referred to therein to any person who declares that such information is required in the course of his planning duties. | |
| (2) A person who wilfully discloses or permits to be disclosed the information referred to in subsection (1) to any other person not likewise entitled in the course of his duties to acquire or have access to the information is guilty of an offence and on conviction is liable to a fine of not more than $200, or to imprisonment for a term of not more than six months, or to both. | |
| (3) This section does not prevent disclosure of such information by any person when being examined as a witness in an action or other proceeding in a court or in an arbitration. | |
| **69.** (1) Municipalities and planning boards in formulating and implementing planning policies shall comply with such standards for the development of muncipalites as are prescribed. | The Association suggests that municipal development standards are a matter of local concern and not a matter which should be prescribed at the Provincial level. As such, it is recommended that Section 69 be deleted. |

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| (2) Before any standard as mentioned in subsection (1) is prescribed, the Minister shall confer with such municipal, provincial, federal or other officials and bodies or persons as he considers have an interest in the proposed standard. | |
| **70.** (1) The council of a municipality may by by-law prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality in respect of the processing of each type of application provided for in the tariff. | |
| (2) Notwithstanding that a tariff of fees is prescribed under subsection (1), the council of a municipality, a committee of adjustment or a land division committee in processing an application may reduce the amount of, or waive the requirement for the payment of a fee in respect of the application where the council or committee is satisfied that it would be unreasonable to require payment in accordance with the tariff. | |
| (3) Any person who is required to pay a fee for the processing of an application in respect of a planning matter may pay the amount of the fee under protest and thereafter appeal to the Municipal Board against the levying of the fee or the amount of the fee by giving written notice of appeal to the Municipal Board within thirty days of payment of the fee. | |

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| (4) The Municipal Board shall hear an appeal made under subsection (3) and shall dismiss the appeal or direct that a refund payment be made to the appellant in such amount as the Board determines. | |
| 71. The Lieutenant Governor in Council may make regulations,<br>(a) prescribing for the purposes of subsection 17(2), section 19, subsection 28(4), subsection 34(11), subsection 37(3) or subsection 45(5), the persons and agencies that are to be given notice, the manner in which notice is to be given and the information that must be contained therein; | The Association believes that all regulations must be formulated in consultation with AMO and that AMO must be afforded an opportunity to review and comment upon regulations prior to their promulgation. |
| (b) providing for the charging of a fee on any application made in respect of a planning matter to a planning board that has had authority delegated to it by the Minister; | |
| (c) prescribing for the purposes of section 69, standards for the development of municipalities which standards may vary according to population, geographic location or otherwise; | In accordance with the position of the Association with respect to Section 69 it is recommended that clause 71(c) be deleted. |
| (d) prescribing rules of procedure for committees of adjustment and land division committees constituted under sections 44, 55 and 56; | |
| (e) prescribing agencies or persons for the purposes of subsection 53(4); and | |

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| (f) prescribing for the purposes of subsection 45(11), the additional information and material required to be sent to the Minister. | |
| **72.** In the event of conflict between the provisions of this and any other general or special Act, the provisions of this Act prevail. | |
| **73.** (1) Except as provided in subsection (2), every official plan that is in effect immediately before the day this Act comes into force shall remain in effect but may be amended or repealed in accordance with this Act. | The Association recommends that the words "and shall be deemed to be the official plan of the municipality to which it applies" should be added after the phrase "shall remain in effect" in subsection 73(1). |
| (2) Every official plan of a joint planning area that is in effect immediately before the day this Act comes into force shall be deemed to be repealed two years from that day, if not sooner repealed. | Subsections 73(2) and 73(3) should be deleted. |
| (3) At any time during the two year period mentioned in subsection (2) the Minister may approve any amendment or repeal of an official plan of a joint planning area that may be proposed by the council of any municipality affected by the official plan. | |

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| **74.** (1) Except as provided in subsection (3), on the day this Act comes into force all planning areas including joint planning areas and subsidiary planning areas, together with the planning boards thereof are dissolved. | |
| (2) All the assets and liabilities of a planning board dissolved by this section are, in the case of a planning board of a planning area consisting of part or all of one municipality, assets and liabilities of such municipality and in the case of a planning board of a joint planning area, assets and liabilities of the municipalities that form part of the joint planning area and if such municipalities cannot agree as to the disposition of the assets and liabilities, the Municipal Board, upon the application of one or more of the municipalities, shall direct a final disposition thereof. | |
| (3) Each planning area that immediately before the day this Act comes into force consists of the whole of two or more municipalities that are situate in a territorial district or consists of the whole of one or more municipalities and territory without municipal organization or consists solely of territory without municipal organization shall continue as a planning area undker this Act without any change in name until altered or dissolved by the Minister. | |
| (4) Each planning board of a planning area mentioned in subsection (3) shall continue as a planning board under this Act without any change in name or constitution until the planning area is dissolved or the name or constitution of the planning board is changed by the Minister. | |

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| (5) Persons who immediately before the day this Act comes into force are members of a planning board mentioned in subsection (4) shasll remain in office until the expiry of the term of the council that appointed them and until their successors have been appointed under this Act. | |
| **75.** The Planning Act, being chapter 379 of the Revised Statutes of Ontario, 1980, is repealed. | |
| **76.** (1) In this section, "former Act" means the Planning Act, being chapter 379 of the Revised Statutes of Ontario, 1980. | In accordance with a previously stated position of the Association all definitions should be included in Section 1. |
| (2) Despite section 75, any matter or proceeding mentioned in subsection (3) that has been commenced under the former Act before the day this Act comes into force shall be continued and finally disposed of under the former Act. | |
| (3) For the purposes of subsection (2), a matter or proceeding shall be deemed to have been commenced, in the case of, | |
| (a) an official plan or an amendment thereto or a repeal thereof, on the day the by-law adopting the plan or adopting or proposing the amendment or repeal of the plan is passed; | |
| (b) a request under subsection 17(3) of the former Act, on the day the request is made; | |

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| (c) redevelopment under section 22 of the former Act, on the day the by-law designating the redevelopment area is pased; | |
| (d) subdivision of land under section 33 of the former Act, on the day the application is made under subsection (1) of that section; | |
| (e) a zoning by-law or an amendment thereto, on the day the by-law is passed; | |
| (f) an application under subsection 39(23) of the former Act, on the day the application is made; | |
| (g) development in a site plan control area, on the day the application is made under subsection 40(4) of the former Act; | |
| (h) an application made to a committee of adjustment, a land division committee or planning board for a planning area in a territorial district, on the day the application is made; and | |
| (i) an application to the Minister for a consent under section 29 of the former Act, on the day the application is made. | |

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| **77.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. | |
| **78.** The short title of this Act is the Planning Act, 1981. | |